IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16930 of 2025
and
W.M.P.Nos.19226 & 19228 of 2025

TVL SRI PONVINAAYAKA TEX
REP BY ITS PROP. R. SENTHIL KANNAN. ...Petitioner

Vs

1 The APPELLATE DEPUTY COMMISSIONER
GOODS AND SERVICE TAX ERODE

2 THE COMMERCIAL TAX OFFICER
METTUR ROAD ASSESSMENT CIRCLE
COMMERCIAL TAX DEPARTMENT ERODE. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of CERTIORARI calling for the records pertaining to the impugned order passed by the respondent in FORM GST APL-O2 dated 21.03.2025 and quash the same and pass.

For Petitioner : M/s.D.Kaladevi

For Respondents : Ms..Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard M/s.D.Kaladevi, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T), who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent in FORM GST APL-O2 dated 21.O3.2O25 and quash the same.

3. The learned counsel for the petitioner would submit that the second respondent passed an assessment order for the Year 2019-20 dated 20.06.2024, thereby, levying tax, interest and penalty; that aggrieved by the said order, the petitioner preferred an Appeal before the first respondent/Appellate Authority by making mandatory deposit of 10% of the disputed tax, though the same was filed well within the period of limitation, the first respondent rejected the Appeal on the ground that there was no statement of facts and grounds attached with the Apl-01.

3.1 The learned counsel for the petitioner would submit that as per the GST Act, the Appeal against the assessment order has to be filed within a period of 90 days, and in the present case, since time to prefer such Appeal is getting closer, due to urgency in filing the Appeal, the petitioner was not in a position to upload the statement of facts and grounds along with the Appeal and the same is neither wilful nor wanton, but purely owing to some mistake, but at the same time, the petitioner has complied with the pre-condition for filing the Appeal, by depositing 10% of the disputed tax, however, the first respondent without considering the said aspects, passed the impugned order, rejecting the Appeal. Therefore, the learned counsel prays for setting aside the impugned order of rejection of the Appeal.

4. The learned Government Advocate for the respondents submitted that as the petitioner failed to file grounds of Appeal, statement of facts along with Appeal Petition, the same came to be rightly rejected by the first respondent/Appellate Authority, however, she fairly submitted that, in the event, this Court is inclined to set aside the impugned order, the same may be done, subject to certain condition imposed on the petitioner.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that aggrieved by the assessment order passed by the Assessing Officer dated 20.06.2024, the petitioner preferred an Appeal before the Appellate Authority/first respondent. Though the Appeal was filed in time, however, in doing so, due to paucity of time, the petitioner by mistake, failed to file statement of facts and grounds of Appeal. According to the learned counsel for the petitioner the reason non-filing of grounds of appeal/statement of facts is neither wilful nor wanton, but purely owing to the fact that the Appeal was filed in hurry burry.

6.1 Though the reasons assigned by the petitioner for non-filing grounds of Appeal and statement of facts while preferring the Appeal is not satisfactory, this Court, in the interest of justice, is inclined to grant one more opportunity to the petitioner to putforth their case before the Appellate Authority, however, subject to certain conditions.

6.2 Accordingly, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order of rejection of the Appeal passed by the first respondent /Appellate Authority dated 21.03.2025 is set aside, subject to the condition that the petitioner deposits 5% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order.

ii) Thereafter, the petitioner is directed to file an Appeal afresh along with grounds of Appeal/statement of facts and all relevant papers/document within a period of four weeks from the date of receipt of a copy of this order.

iii) As and when, such an Appeal is filed by the petitioner, the first respondent/Appellate Authority, upon verification of the proof with regard to the payment of 5% of the disputed tax made by the petitioner, is directed to entertain the Appeal and dispose of the same in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.06.2025

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To

1 The APPELLATE DEPUTY COMMISSIONER
GOODS AND SERVICE TAX ERODE

2 THE COMMERCIAL TAX OFFICER
METTUR ROAD ASSESSMENT CIRCLE
COMMERCIAL TAX DEPARTMENT ERODE.

Krishnan Ramasamy,J.,

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