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W.P.No.15612 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 15612 of 2025

and

W.M.P.Nos.17652, 17656 and 17663 of 2025

Maxmuller Technologies
rep. By its Authorized Signatory.

...Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary to Government
Commercial Taxes and Registration Department
Secretariat, Fort St. George, Chennai -600 009.
2. The Deputy Commissioner (CT), Salem.
3. The Assistant Commissioner (ST)
Tiruppur Central II, Tiruppur.
4. The Bank Manager,
ICICI Bank Ltd., 56/1, Coccon,
Sabari Salai. Kumaran Road,
Tirupur – 341 601.
5. The Bank Manager,
HDFC Bank, No.14, Aristo International Building Mahaveer Colony,
TELC Church Compound, Sabapathi Puram,
Tiruppur – 641 601.



W.P.No.15612 of 2025

6. The Bank Manager,
Kotak Mahindra Bank,
Ground Floor, Avinashi Tirupur Road
Kumar Nagar Avenue, Tiruppur -641 603.

...Respondents

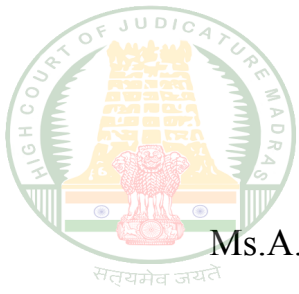
Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the impugned order dated 05.04.2025 in ZD330425055032W passed by the second respondent and to quash the same as arbitrary and to direct the second respondent to accept the Appeal in AD330824021552D without raising any issue on limitation and consequently, to direct the third respondent to withdraw the notice dated 08.04.2025 issued to the fourth, fifth and sixth respondents.

For Petitioner : Mr.Sakthi Aatharsh
For Respondents 1 to 3 : Mr.V.Prashanth Kiran
Government Advocate (T)
For Respondent-5 : Mr.C.Mohan and
Ms.A.Rexy Josephine
for M/s.King and Partridge

Order

Heard Mr.Sakthi Aatharsh learned counsel appearing for the petitioner, Mr.V.Prashanth Kiran, learned Government Advocate (T) who takes notice on behalf of respondents 1 to 3 and Mr.C.Mohan and



W.P.No.15612 of 2025

Ms.A.Rexy Josephine, learned counsel who takes notice on behalf of the respondent No.5. 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 second respondent dated 05.04.2025 and to quash the same and to direct the second respondent to accept the Appeal without raising any issue on limitation and consequently, to direct the third respondent to withdraw the notice dated 08.04.2025 issued to the fourth, fifth and sixth respondents.

3. The learned counsel for the petitioner would submit that aggrieved by the order passed by the third respondent/Assessing Officer dated 24.04.2024, the petitioner preferred an Appeal before the second respondent on 18.08.2024, however, the same came to be rejected by virtue of the impugned order stating that the reason for the delay in filing the Appeal has not been attached, aggrieved by the said rejection order of Appeal, the petitioner has filed this Writ Petition.



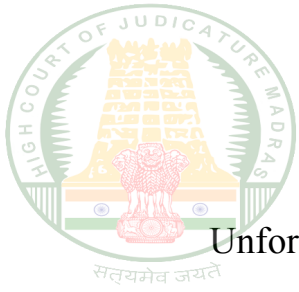
W.P.No.15612 of 2025

3.1 The learned counsel would submit that the reason for the delay in filing the Appeal is due to the fact that the petitioner was not aware of the assessment order passed by the third respondent dated 24.04.2024, inasmuch as, the said order is an ex parte order, as, no personal hearing opportunity was provided to the petitioner, and the moment, the petitioner came to know of the assessment order, the petitioner preferred an Appeal, and in doing so, there happened to be a delay of 25 days. Therefore, the learned counsel prays for setting aside the impugned order.

4. The learned Government Advocate (T) for the respondents 1 to 3 submitted that as the petitioner failed to file separate application setting out the reason for the delay, the Appeal was not entertained by the Appellate Authority and came to be rejected at the threshold.

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 a show cause notice was issued by the third respondent dated 31.01.2024 calling for petitioner's reply.



W.P.No.15612 of 2025

Unfortunately, the petitioner was not aware of the said show cause notice, and hence, petitioner could not file reply. However, the third respondent, without even affording an opportunity of personal hearing to the petitioner, passed the assessment order 24.04.2024. Thus, it is clear that the order passed by the third respondent is an ex parte order. The petitioner came to know of the assessment order only after initiation of recovery proceedings against the petitioner in furtherance of the assessment order. Therefore, the petitioner, aggrieved by the said assessment order, filed an Appeal before the Appellate Authority/second respondent, however, in doing so, there happened to be a delay of 25 days. As the petitioner's Appeal is not supported by separate application setting out the reasons for the delay, the Appellate Authority by virtue of the order impugned herein, rejected the Appeal.

6.1 Thus, this Court, in the light of the aforesaid facts of the case and in the interest of justice, is inclined to grant one more opportunity to the petitioner to putforth their case before the Appellate Authority, as the reasons assigned by the petitioner for the delay appears to be genuine.



W.P.No.15612 of 2025

Accordingly, this Court is inclined to pass/issue the following

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i) The impugned order passed by the second respondent/Appellate Authority dated 05.04.2025 is set aside.

ii) The petitioner is directed to file a separate application setting out the reasons for the delay in filing the Appeal within a period of 30 days from the date of receipt of a copy of this order.

iii) As and when such an Application is filed by the petitioner, the second respondent/Appellate Authority is directed to entertain the same by condoning the delay and take up the Appeal and dispose of the same in accordance with law, without raising any ground on limitation.

iv) So far as the recovery proceedings initiated against the petitioner by the third respondent in furtherance of the assessment order dated 24.04.2024 by virtue of notice issued on the petitioner's bankers, viz. Respondents 4 to 6 dated 08.04.2024 is concerned, the same shall remain stayed till the Appeal gets numbered. It is needless to state that once the mandatory pre-deposit is made and the Appeal is numbered, the benefit of stay of the impugned assessment order would enure to the petitioner automatically.



W.P.No.15612 of 2025

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

29.04.2025

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Index : yes/no

Neutral Citation : yes/no

To

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7/8



WEB COPY



W.P.No.15612 of 2025

Krishnan Ramasamy,J.,

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W.P.No. 15612 of 2025

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