IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 15566 of 2025
and
W.M.P.Nos.17604, 17609 and 17620 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 Deputy State Tax Officer -1
Tiruppur Central II, Tiruppur.

4. The Assistant Commissioner (ST)
Tiruppur Central II, Tiruppur.

5. The Bank Manager,
ICICI Bank Ltd., 56/1, Coccon,
Sabari Salai. Kumaran Road,
Tirupur – 341 601.

6. The Bank Manager,
HDFC Bank, No.14, Aristo International Building Mahaveer Colony,
TELC Church Compound, Sabapathi Puram,
Tiruppur – 641 601.

7. 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 24.03.2025 in ZD3303251867843 passed by the second respondent and to quash the same as arbitrary and to direct the second respondent to accept the Appeal in AD3308240215482 without raising any issue on limitation and consequently, to direct the fourth respondent to withdraw the notice dated 08.04.2025 issued to the fifth, sixth and seventh respondents.

For Petitioner	:	Mr.Sakthi Aatharsh
For Respondents 1 to 4	:	Mr.V.Prashanth Kiran Government Advocate (T)
For Respondent-6	:	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 4 and Mr.C.Mohan and

Ms.A.Rexy Josephine, learned counsel who takes notice on behalf of the respondent No.6. 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 24.03.2025 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 fourth respondent to withdraw the notice dated 08.04.2025 issued to the fifth, sixth and seventh respondents.

3. The learned counsel for the petitioner would submit that aggrieved by the order passed by the third respondent/Assessing Officer dated 29.04.2024, 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 with Appeal Petition and hence, aggrieved by the said rejection order of Appeal, the petitioner has filed this Writ Petition.

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 29.04.2024, 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 filed an Application dated 25.07.2024, seeking rectification of the assessment order, however, the same came to be rejected on 08.08.2024 and, thereafter, the petitioner preferred the Appeal, and in doing so, there happened to be a delay of 20 days. Therefore, the learned counsel prays for setting aside the impugned order.

4. The learned Government Advocate (T) for the respondents 1 to 4 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 27.12.2023 calling for petitioner's reply. 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 29.04.2024. 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 a Rectification Petition pointing out the error that is apparent on the face of record. However, the third respondent vide order dated 08.08.2024 rejected the Rectification Application. Thereafter, the petitioner filed an Appeal challenging the order of the third respondent dated 29.04.2024 before the Appellate Authority/second respondent, however, in doing so, there happened to be a delay of 20 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. Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The impugned order passed by the second respondent/Appellate Authority dated 24.03.2025 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 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 fourth respondent in furtherance of the assessment order dated 29.04.2024 by virtue of notice issued on the petitioner's bankers, viz. Respondents 5 to 7 dated 08.04.2024 is concerned, the same shall remain stayed till the date of numbering of the Appeal. 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.

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

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Krishnan Ramasamy,J.,

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