IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15679 of 2025
and
W.M.P.Nos.17734, 17735 and 17736 of 2025

M/s.Popular Maruthi Paints
Represented by its Proprietor:G.Padmanaban
P.No.9, Kumaran Nagar, Kilkattalai,
Chennai- 600 017.

... Petitioner

..Vs..

1.Deputy State Tax Officer,
Medavakkam Assessment Circle
Station No:571, Integrated Commercial Taxes
and Registration Department (South Tower)
Room No.2232, 2nd Floor, Nandanam,
Chennai- 600 035.

2. Deputy Commissioner of ST (FAC),
Tambaram Zone,
PAPJM No.1, Greams Road,
4th Floor, Room No.422
Greams Road,
Chennai- 600 006.

3. Deputy Commissioner (ST),

GST-APPEAL, Chennai-II,
Main Building, 2nd Floor,
Greams Road, Chennai-600 006.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the Order passed by the Impugned Order in RC No.937/2025/A2, dated 08.04.2025 passed by the 3rd respondent and quash the same as bad in law and consequently direct the 3rd respondent to admit and entertain the appeal filed by the petitioner in FORM GST APL-01, dated 30/03/2025.

For Petitioner : Mr.Varun Ranganathan
For Respondents : Ms.P.Selvi
Government Advocate (Taxes)

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ORDER

This writ petition has been filed challenging the impugned order of the 3rd respondent dated 08.04.2024 and to quash the same and consequently direct the 3rd respondent to admit and entertain the appeal filed by the petitioner in FORM GST APL-01, dated 30/03/2025.

2. Ms. P.Selvi, learned Government Advocate (Taxes) takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the Petitioner submitted that the 1st respondent issued show cause notice dated 23.05.2025 to the petitioner, for which the petitioner filed its reply on 03.07.2024. But the 1st respondent without considering the same has passed the impugned assessment order dated 29.08.2024, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2019-2020 and the same was uploaded in the GST portal. The petitioner came to know of the impugned order only after the passing of the attachment order. Immediately, the petitioner filed an appeal before the 3rd respondent on 08.04.2025 challenging the assessment order, with a delay of 121 days. The 3rd Respondent vide order dated 08.04.2025 dismissed the appeal on the ground of delay.

4. The learned counsel for the petitioner would submit that since

the assessment order was uploaded in the GST portal, the petitioner was not aware of the same and therefore the petitioner could not file appeal in time. He therefore requested this Court to condone the delay and direct the 3rd respondent to dispose of the appeal within the stipulated period.

5. The learned Government Advocate (Taxes) appearing for the respondents would submit that since the delay is beyond the condonable period, the appeal filed by the petitioner came to be rejected. However, he would fairly submit that the delay may be condoned on terms.

6. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the disputed tax at the time of filing appeal and now ready to deposit additional 10% of disputed tax over and above the 10%, which was already deposited before the authority concerned.

7. Heard both sides and also perused the materials available on record.

8. Considering the aforesaid submissions made by the learned counsel appearing on either side and on perusal of records it is evident that since the impugned order was uploaded in the GST portal without serving physical copy of the same to the petitioner, the petitioner was unaware of the same and therefore could not file appeal in time.

9. In view of the same,this Court is of the view that the reasons assigned by the petitioner for the delay in filing the appeal appears to be genuine. Hence, this Court is inclined to set aside the order passed by the 3rd respondent dated 08.04.2024 and condone the delay of 121 days in filing the Appeal before the 3rd Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the order dated 08.04.2024 passed by the 3rd respondent is set aside and the delay of 121 days in filing the appeal before the 3rd respondent is condoned subject to payment of 10% of disputed tax demand as agreed by the petitioner, before the 3rd respondent, within a period of three weeks from the date of receipt of a copy of this order.

(ii) On such payment being made, the 3rd respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, as expeditiously as possible.

(iii) The respondents are directed to instruct the concerned bank to defreeze the the bank account of the petitioner immediately upon the production of proof with regard to the aforesaid payment made by the petitioner along with a copy of this order.

10. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

30.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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KRISHNAN RAMASAMY.J.,

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