IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.05.2025

CORAM

THE HONOURABLE MRS.JUSTICE **N.MALA**

W.P No.17504 of 2025
and
W.M.P. Nos.19853 and 19856 of 2025

Tvl.Sri Hari Enterprises
rep. By its Proprietor Haridhama,
Krishnagiri By-pass Road,
Hosur – 635 109. ... Petitioner

vs

1.The Assistant Commissioner (ST) (FAC),
Hosur (North) II Circle, Hosur.

2.The Deputy Commissioner (CT) (Appeals),
Hosur.

3.HDFC Bank,
Plot No.42/2, KTR Tower,
Krishnagiri Bypass Road,
Hosur – 635 109. ... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the second respondent's Form GST APL-02 dated 04.04.2025 and quash the same and direct the second respondent to grant opportunity to the petitioner to rectify the defects in Appeal bearing

ARN#AD331124010858B including by filing application for condonation of delay and further direct the first respondent not to take any coercive steps against the petitioner till then.

For Petitioner	:	Mr.Adithya Reddy
For Respondents	:	Mr.V.Prashanth Kiran, Government Advocate for R1 and R2 Mr.C.Mohan and Ms.A.Rexy Josephine Mary for M/s.King and Patridge for R3

ORDER

This writ petition has been filed for the issuance of a writ of certiorarified mandamus calling for the second respondent's order dated 04.04.2025 and quash the same and further direct the second respondent to grant opportunity to the petitioner to rectify the defects in Appeal bearing ARN#AD331124010858B including by filing application for condonation of delay and further direct the first respondent not to take any coercive steps against the petitioner till then.

2. The petitioner is engaged in the business of civil works contracts and is a registered tax payer under the TNGST/CGST Act, 2017. While so, the first respondent issued a show cause notice dated 19.03.2024 under Section 74 of TNGST/CGST Act alleging certain discrepancies in the returns filed for the financial year 2019-2020. The petitioner submitted a detailed reply to the show cause notice on 09.04.2024. On 25.07.2024, an order was passed confirming the discrepancies and raising the demand for tax, penalty and interest. According to the petitioner, the proposal mentioned in the notice dated 19.03.2024 was confirmed without properly considering the reply submitted by the petitioner. Therefore, the petitioner preferred an appeal under Section 107 of the GST Act on 07.11.2024, which was within the prescribed 120 days limitation period. While preferring the appeal, the petitioner erroneously failed to file condonation of delay application along with the appeal. The second respondent vide impugned order dated 04.04.2025, rejected the petitioner's appeal on the ground that there was a delay in submission of the appeal. According to the petitioner, the appeal was filed well within the limitation period under Section 107 of GST Act. It is the case of the petitioner that the appeal was filed beyond 90 days but within the

condonable period of 30 days under the TNGST Act. The appeal could not be filed within 90 days for medical reasons. After dismissal of the appeal by the first respondent, the second respondent proceeded to take coercive steps against the petitioner for recovery of demand in terms of Section 112 of the Act. The petitioner being left with no other remedy has approached this Court with the aforesaid prayer.

3. Learned counsel for the petitioner relying on the judgment of this Court in ***Indian Potash Ltd., Vs. Deputy Commissioner (ST) GST Appeal*** stated that the appeal was rejected on technical grounds and therefore, the impugned order deserves to be set aside.

4. I heard both sides and perused the materials placed on record.

5.Admittedly, the petitioner filed the appeal beyond 90 days but within a condonable period of 30 days under Section 107 of the GST Act. It appears that the petitioner erroneously filed the appeal without enclosing the Condonation of Delay application. Therefore, the second respondent rejected the petitioner's appeal on the ground that the appeal was filed belatedly. This Court in ***Indian Potash Ltd., Vs. Deputy Commissioner (ST) GST Appeal*** held that an appeal cannot be rejected on the ground of technical defects. No doubt there is procedural irregularity in filing the appeal but such procedural irregularity should not defeat the petitioner's right. As it is well settled that procedure is handmaid of justice, I am of the view that the petitioner should be given an opportunity to rectify the defect.

6. In the light of the above discussion, the impugned order is set aside. The petitioner is directed to represent the appeal along with condonation of delay application and the second respondent on re-presentation of appeal, along with condonation of delay application, shall entertain the same by calculating the limitation from the date of filing of original appeal.

7. The writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petitions are closed.

09.05.2025

Index : Yes / No
Neutral Citation : Yes / No
mmi/gpa

To

1.The Assistant Commissioner (ST) (FAC),
Hosur (North) II Circle, Hosur.

2.The Deputy Commissioner (CT) (Appeals),
Hosur.

N.MALA, J.,

gpa

W.P.No.17504 of 2025

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