IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE N. SENTHILKUMAR

Writ Appeal Nos.1690, 1688 and 1700 of 2025
and CMP.Nos.12712, 12709 & 12840 of 2025

M/s.GVR Ashoka Chennai ORR Limited
represented by its Authorized Signatory
Umasankar Muthuraman
No.133, Administrative Block,
400 ft. Road, Chinnamullalvoyal Toll Plaza
Tiruvallur, Tamil Nadu – 600 103. .. Appellant in the above W.As

vs

1 Assistant Commissioner (ST),
Cholavaram Assessment Circle,
Room No.109, 1st Floor,
Integrated Commercial Taxes Building,
Wall Tax Building, Chennai – 600 003.

2 Joint Commissioner (ST),
Thiruvallur Division,
Chennai – 600 003. .. Respondents in the above W.As

Prayer : APPEALs filed under Clause 15 of the Letters Patent against order dated 21.12.2024 passed in W.P.Nos.35479, 35482 and 35764 of 2024 on the file of this Court.

For Appellant	:	Mr.Sethu Prabakaran. R
For Respondents	:	Ms.Amirtha Dinakaran Government Advocate

COMMON JUDGMENT

(Judgment of the Court was delivered by Dr.ANITA SUMANTH.,J)

The challenge in these Writ Appeals is to a common order dated 21.12.2024 passed in four Writ Petitions.

2. The appellant has filed four Writ Petitions, first challenging an order of assessment dated 21.09.2023 for assessment year 2016-17 passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'), second and third against the consequential recovery notices dated 15.02.2024 and 13.08.2024 and the fourth Writ Petition, challenging order dated 26.06.2024 passed by the Joint Commissioner rejecting a revision application filed by the appellant.

3. The defence of the Commercial Taxes Department was that as against the order of assessment, a revision would not lie and only an appeal ought to have been filed in terms of Section 51 of the Act.

4. One of the contentions raised by the appellant was that there had been no proper service of the assessment order. The learned Judge declines consideration of this argument on the ground that the question of validity and proper service constitutes a question of fact and the Court was not inclined to go into the same. However, permission was granted to the appellant to file an appeal challenging order of assessment dated 21.09.2023 raising all contentions including the validity of service of notice/order, to be decided as a preliminary issue.

5. At the time when the impugned order was passed, the statutory limitation for filing of appeal had expired and the Court left the question of condonation open to the appellate authority for decision. The appellant has clearly not understood the aforesaid direction as the appeal has been filed without a delay condonation petition.

6. Hence, while passing order dated 04.03.2025, the appellate authority has merely rejected the appeal as non-maintainable as there was inordinate delay of 246 days. The appellate authority cannot be faulted, since the appellant has not even filed a condonation petition before him setting out the reasons for condonation of delay.

7. Having regard to the circumstances that arise in the present matter, and particularly since the learned Judge had said that the question of validity of service shall be decided as a preliminary issue, we deem it appropriate that the delay be condoned and the appeal be decided on merits rather than rejected at the threshold on the question of delay.

8. Hence, and for the aforesaid reasons, we condone the delay of 246 days in filing the appeal and restore the appeal to the file of the appellate authority for decision.

DR. ANITA SUMANTH,J.
and
N. SENTHILKUMAR.,J

9. The appellant shall appear before the appellate authority, ie.., R2

on Friday, the 20th of June, 2025 at 11.00 a.m. without anticipating any further notice in this regard, along with all relevant materials in support of its argument relating to validity of service.

10. The appellate authority shall decide the preliminary issue and conditional upon his decision on that argument, take the appeal for hearing and disposal thereafter.

11. These Writ Appeals are disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

[A.S.M., J] **[N.S., J]**
11.06.2025

sl
Index:Yes/No
Speaking order
Neutral Citation:Yes

To

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