IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP.Nos.20985 & 20991 of 2025
AND
WMP.Nos.23716, 23715, 23723 & 23724 of 2025

M/s.Kaajal Agarwal,
W/o. Sanjay Agarwal,
5C, Kilpauk Garden Road, First Street
Kilpauk, Chennai, Tamil Nadu – 600 010.

Petitioner in both W.Ps

Vs

1.The State Tax Officer,
Kilpauk Assessment Circle, Central - II,
Chennai Central, Tamil Nadu,
No. F-50, 3rd Floor, First Avenue,
Anna Nagar, Chennai - 600 102.

2.Deputy Commissioner (CT) (GST Appeal),
Room No.253 & 255, Second Floor,
Integrated Commercial Taxes and
Registration Building, South Tower, Nandanam,
Chennai – 600 035.

Respondents in both W.Ps

PRAYER in W.P.No.20985 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent of Order in Reference NoZD330325252035T passed under Section 107 of the TNGST Act, 2017 dated 28.03.2025 passed by the 2nd respondent and quash the same as illegal and not in accordance with law and consequently direct the 2nd respondent to adjudicate the appeal filed by the Petitioner for the FY 2019-20 in accordance with law.

PRAYER in W.P.No.20991 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the file of the 1st respondent and impugned Order in Reference No.ZD330824255035I passed under Section 73 of the TNGST Act, 2017 dated 28.08.2024 for the FY2019-20 passed by the 1st respondent and quash the same as illegal and not in accordance with law.

In all W.Ps

For Petitioner(s):	Mr.S.Gautam Venkata Narayanan For Mr. R.Sivaraman
For Respondent(s):	Mr.T.N.C.Kaushik Addl. Govt. Pleader (taxes)

COMMON ORDER

W.P.No.20985 of 2025 has been filed by the petitioner challenging the rejection of appeal order dated 28.03.2025, passed by the 2nd respondent.

W.P.No.20991 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 28.08.2024 passed by the 1st respondent, relating to the Financial Year 2019-2020.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that the 1st respondent issued the show cause notice to the petitioner on 21.05.2024, alleging that there was a mismatch of Input Tax Credit in GSTR 1 and GSTR

3B and certain excess claim of ITC was effected by the petitioner for the Financial Year 2019-2020. In response to the said show cause notice, the petitioner submitted their reply on 26.08.2024, explaining that there is no mismatch of ITC. Without considering the reply of the petitioner, the 1st respondent proceeded to pass an order dated 28.08.2024, confirming the proposal of the said show-cause notice, thereby resulting in a demand of Rs.65,37,201/- along with interest and penalty.

5.He would further submit that aggrieved over the assessment order dated 28.08.2024, the petitioner filed the rectification application and the same was rejected by the 1st respondent vide order dated 06.02.2025. Therefore, the petitioner preferred an appeal before the 2nd respondent on 07.03.2025 with a delay of 67 days. However, the appeal got rejected vide order dated 28.03.2025, on the ground of limitation. Hence, he prayed to condone the delay and to direct the 2nd respondent to adjudicate the appeal, on any terms including any condition of additional pre-deposit.

6.Learned Additional Government Pleader appearing for the respondents would submit that subject to the leave of this Court, this writ petition may be disposed of and the orders whichever passed by this Court will be complied with.

7.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

8.Considering the submission made by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents, it appears that the 1st respondent had dismissed the appeal at the threshold on the ground of limitation. According to the petitioner, the petitioner filed the rectification application on 25.11.2024 itself and the 1st respondent rejected the same vide order dated 06.02.2025. Thereafter, the petitioner immediately preferred an appeal on 07.03.2025 and the delay of 67 days has occurred since the petitioner was pursuing the rectification application. The reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine. Therefore, this Court is inclined to condone the delay of 67 days in filing the appeal against the impugned assessment order. Accordingly, this Court passes the following orders:

(i) The delay of 67 days in filing the appeal against the impugned assessment order dated 28.08.2024 is hereby condoned.

ii) The 2nd respondent/Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect, subject to the payment of 5% of the disputed tax demand as agreed by the petitioner in addition to 10% statutory pre-deposit, i.e totally 15% of the disputed tax amount in respect of the impugned assessment period, within a period of two weeks from the date of receipt of a copy of this order.

(iii) Upon production of proof with regard to the payment of 15% of the disputed tax made by the petitioner, the respondents-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

9.With the above directions, the writ petition in W.P.No.20985 of 2025 is disposed of.

10.In view of the order passed by this Court in W.P.No.20985 of 2025 by setting aside the rejection of appeal order dated 28.03.2025 passed by the 2nd respondent, the writ petition in W.P.No.20991 of 2025 is hereby dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

16-06-2025

rst

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

To

1.The State Tax Officer,
Kilpauk Assessmetn Circle, Central II, Chennai
Central, Tamil Nadu,
No. F 50 3rd Florm First Avenue,
Anna Nagar, Chennai - 600 102.

2.Deputy Commissioner (CT) (GST Appeal),
Room No.253 & 255, Second Floor,
Integrated Commercial Taxes and
Registration Building, South Tower,
Nandanam, Chennai – 600 035.

KRISHNAN RAMASAMY J.

rst

WP No. 20985 of 2025
AND
WMP NO. 23716 OF 2025,
WMP NO. 23715 OF 2025

16-06-2025