IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 20983 of 2025
AND
WP NO. 16906 OF 2025,WMP NO. 19185 OF 2025,WMP NO. 19189 OF 2025,WMP NO. 23710 OF 2025,WMP NO. 23713 OF 2025

Sivakumaran Traders
Represented by its Proprietor
Mr Ranjith, 187 2A, Arani Road,
Edayansathu Vellore.

Petitioner in both W.Ps

Vs

1.Deputy Commissioner (GST Appeal), Vellore
Commercial Taxes Building,
Bharathiyar Salai, Fort Round, Vellore -632 001.

2.Deputy State Tax Officer - 1
Vellore (South) Assessment Circle
No.4, Barathiyar Salai, Fort Round Road, Vellore.

Respondents
in W.P.No.20983 of 2025

1.Deputy State Tax Officer – 1,
Vellore (South) Assessment Circle,
No.4, Barathiyar Salai, Fort Round Road,
Vellore.

2.Deputy Commissioner (GST Appeal),
Commercial Taxes Building,
Bharathiyar Salai, Fort Round,
Vellore – 632 001. Respondent
in W.P.No.16906 of 2025

PAYER in W.P.No.20983 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 relating to the impugned order in Form GST APL-02 with reference no. ZD3302252648856 dated 26.02.2025 passed by the 1st Respondent under section 107 of the CGST Act read with the corresponding provision under the TNGST Act for the year 2017-18, and quash the same.

PRAYER in WP No. 16906 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, **c**alling for the records relating to the impugned order no.ZD331223266899Y dated 29.12.2023 passed by the 1st Respondent under Section 73 of the Central Goods and Services Tax Act, 2017 read with the corresponding provision under the Tamil Nadu Goods and Services Tax Act, 2017 for the year 2017-18.

For Petitioner in both W.Ps:	:	Ms.Abirami S
For Respondent(s) (in W.P.No.20983 of 2025):		Ms. Amirta Poonkodi Dinakaran Govt. Advocate (t)
For Respondent(s) (in W.P.No.20983 of 2025):		Mr.T.N.C.Kaushik, Addl. Govt. Pleader

COMMON ORDER

W.P.No.16906 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 29.12.2023, passed by the 1st respondent.

W.P.No.20983 of 2025 has been filed by the petitioner challenging the appeal rejection order dated 26.02.2025, passed by the 1st respondent.

2.Ms.Amirta Poonkodi Dinakaran, 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.Learned counsel for the petitioner would submit that in the present case, the show cause notice dated 30.09.2023 was issued by the 2nd respondent, proposing a demand of ITC reversal with interest and penalty. Since the said notice was uploaded in the GST portal and the petitioner was not alerted any physical copy or email, the petitioner was not aware of the same. Later he engaged a GST practitioner, who filed an erroneous reply on 14.12.2023 to the said said cause notice and did not attend the personal hearing. Therefore, the impugned assessment order dated 29.12.2023 came to be passed which was also uploaded under the “View Additional Notices & Orders” tab on the GST common portal. The petitioner was not aware of the impugned assessment order and only when the petitioner received a call from the 2nd respondent seeking details of payment against the order-in-original, the petitioner was aware of the impugned assessment order dated 29.12.2023.

4.He would further submit that aggrieved over the assessment order dated 29.12.2023, the petitioner filed an appeal before the 1st respondent with a delay of 1 day beyond the condonable period. The 1st respondent had dismissed the appeal at the threshold on the ground of limitation. Hence, the present writ petition has been filed to condone the delay and to direct the 1st respondent to take the appeal on record.

5.Learned Government Advocate appearing for the respondents would submit that since the appeal has been preferred beyond the statutory limitation period, the 1st respondent rejected the appeal. He would further submit that if the Court satisfied with the reason assigned by the petitioner for the delay, the Court may condone the delay and the petitioner may be directed to pursue the appeal in accordance with law.

6.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

7.Considering the submission made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents, it appears that the 1st respondent had dismissed the appeal at the threshold on the ground of limitation. However, 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 in filing the appeal against the impugned assessment order. Accordingly, this Court passes the following order:

(i) The impugned appeal rejection order dated 26.02.2025 is hereby set aside and the delay in filing the appeal against the impugned assessment order dated 29.12.2023 is hereby condoned

ii) The Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

8.With the above directions, this Writ Petition in W.P.No.20983 of 2025 is disposed of. Since the impugned appeal rejection order dated 26.02.2025 is set aside, the Writ Petition in W.P.No.16906 of 2025 challenging the impugned assessment order dated 29.12.2023 stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

24-06-2025

rst

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

To

1.Deputy Commissioner GST Appeal Vellore
Commercial Taxes Building,
Bharathiyar Salai, Fort Round,
Vellore -632 001.

2.Deputy State Tax Officer 1
Vellore (South) Assessment Circle
No.4, Barathiyar Salai,
Fort Round Road Vellore.

KRISHNAN RAMASAMY J.

rst

WP No.20983 of 2025
AND WP No.16906 of 2025

24-06-2025