IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2025

CORAM

The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.20826 of 2025
and
WMP.Nos.23511 & 23512 of 2025

Nirmala Agro Services,
Represented by its Partner,
Mr. G. Goutham,
30, Motilal Street, Thiruvallur,
Tamil Nadu - 602 001. ... Petitioner

Vs.

1. Deputy Commissioner (CT),
GST Appeal, Chennai - 1,
Greams Road, Main Building,
2nd Floor, Chennai - 600 006.

2. Sales Tax Officer,
Thiruvallur, Tamil Nadu.

3. Assistant Commissioner (ST) (FAC),
Thiruvallur Assessment Circle,
Chennai - 600 123. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus calling for the records of the respondent Nos.1 and 2 contained in order passed by the second respondent under Section 73 of the Central Goods and Services Act, 2017 in Form GST DRC 07, dated 27.07.2024, bearing Ref.No.ZD3307243264984 and the order passed by the first respondent in Form GST APL - 02, dated 07.05.2025, for FY 2019 - 20 and quash the same as arbitrary, unjust and illegal to the extent that it confirms an addition under the head 'Excess claim of ITC' along with interest and penalty thereon and consequently, direct the Respondent Nos.2 and 3 to drop proceedings for recovery and direct the second respondent to forthwith refund the amount paid as pre-deposit for the appeal.

For Petitioner : Mr. Suhrith Parthasarathy

For Respondents : Mr.C.Harsha Raj
Special Government Pleader (Taxes)

**<u>O R D E R</u>**

This writ petition has been filed challenging the impugned orders of the 2nd respondent dated 27.07.2024 and the 1st respondent dated 07.05.2025 and to quash the same.

2. Mr.C.Harsha Raj, learned Special Government Pleader (Taxes) takes notice on behalf of the Respondent. 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 initially the 2nd respondent issued a show cause notice dated 27.05.2024 to the petitioner by uploading the same in the GST Portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was unable to submit its reply. Subsequently, the 2nd respondent has passed the assessment order dated 27.07.2024, demanding the payment of tax along with penalty and interest for the Assessment Year 2019-2020 and the same was also uploaded in the GST portal. Therefore, the petitioner was not aware of the same. The petitioner came to know of the impugned order only after the receipt of the demand notice from the 3rd respondent. Immediately, the petitioner filed an appeal before the 1st respondent with a delay of 7 days and the same was rejected by the 1st Respondent vide order dated 07.05.2025, on the ground of delay. Being aggrieved over the assessment order as well as the rejection order, the petitioner filed this writ petition.

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

petitioner could not be file appeal within time, due to the reason that since the impugned assessment order was uploaded in the GST portal, without serving physical copy to him, the petitioner was not aware of the same. Hence, he requested this Court to condone the delay and direct the 1st respondent to dispose of the appeal within the stipulated period.

5. The learned Special Government Pleader (Taxes) appearing for the respondents would submit that since the 1st respondent has no power to condone the delay beyond the period of limitation, the appeal filed by the petitioner came to be rejected. Further, he stated no objection for this Court to condone the delay and prayed for appropriate orders.

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

7. In the present case, it is stated by the petitioner that since the impugned assessment order was uploaded in the GST portal, without serving the physical copy of the same to the petitioner, the petitioner was

unaware of the same and only after the receipt of the recovery notice from the 3rd Respondent, the petitioner came to know the impugned assessment order and therefore they could not file appeal within time.

8. Considering the aforesaid facts and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to set aside the impugned order passed by the 1st respondent dated 07.05.2025 is set aside and condone the delay of 7 days in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 07.05.2025 passed by the 1st respondent is set aside and the delay of 7 days in filing the appeal before the 1st respondent is condoned.
>
> (ii) The 1st 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.

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

**13.06.2025**

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
arr

To

1. Deputy Commissioner (CT),
   GST Appeal, Chennai - 1,
   Greams Road, Main Building,
   2nd Floor, Chennai - 600 006.

2. Sales Tax Officer,
   Thiruvallur, Tamil Nadu.

3. Assistant Commissioner (ST) (FAC),
   Thiruvallur Assessment Circle,
   Chennai - 600 123.

KRISHNAN RAMASAMY, J.

arr

Writ Petition No.20826 of 2025
and
WMP.Nos.23511 & 23512 of 2025

13.06.2025