IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21437 of 2025
and
W.M.P.Nos.24204 and 24206 of 2025

Tvl.Priya Belt Traders,
Rep by its Prop-S.Muralidharan,
NO 189, Cuddalore Main Road,
Neyveli, Cuddalore,
Tamil Nadu, 607 802.

... Petitioner

Vs.

1. The Deputy Commissioner (Appeal),
Trichy and Vellore (GST),
O/o, Deputy Commissioner (CT)
No.4, Barathiyar Salai, Fort Round Road,
Vellore- 632001.

2. The State Tax Officer-1,
O/o, Deputy Commercial Tax Officer,
Panruti Rural, Cuddalore,
Tamil Nadu.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to challenging the impugned order bearing ref No.GSTIN: 33AKZPM7254R1ZZ/2018-19 dated 02.03.2024 along with consequential proceedings in FORM GST DRC-07 vide Ref No.ZD330324012573V dated 02.03.2024 under Section 73 of the Act passed by the 2nd Respondent along with the consequential appellate proceedings of Acknowledgment for submission of appeal in FORM GST APL-02 vide Ref.No.ZD330225251213Y dated 25.02.2025 passed by the 1st respondent to quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Mr.T.N.C.Kaushik Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 02.03.2024 passed by the 2nd Respondent along with the consequential appellate proceedings of Acknowledgment for submission of appeal dated 25.02.2025 passed by the 1st respondent and to quash the same.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader

(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. The learned counsel for the Petitioner submitted that initially the 2nd respondent issued show cause notice dated 02.03.2022 to the petitioner for which the petitioner submitted its reply on 02.03.2022 and 07.05.2023 seeking extension of time. Subsequently, the 2nd respondent issued revised show cause notice dated 19.07.2023 followed by three reminders dated 19.07.2023, 12.09.2023 and 06.02.2024. As the petitioner's accountant failed to submit reply to the said notices, the 2nd respondent passed the impugned assessment order dated 02.03.2024 against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2018-2019. After coming to know of the assessment order, the petitioner filed an appeal with delay of 34 days. However, the same was rejected by the 1st Respondent vide order dated 25.02.2025, on the ground of delay. Being aggrieved over the same, 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 ill health of the petitioner. Therefore, 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 Additional 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.

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

7. In the present case, it was stated by the petitioner that since the petitioner's accountant failed to reply to the show cause notice impugned assessment order came to be passed and due to the ill health of the petitioner, the petitioner 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 25.02.2025 and condone the delay of 34 days in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 25.02.2025 passed by the 1st respondent is set aside and the delay of 34 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.

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

18.06.2025

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

To

1. The Deputy Commissioner (Appeal),
   Trichy and Vellore (GST),
   O/o, Deputy Commissioner (CT)

No.4, Barathiyar Salai, Fort Round Road,
Vellore- 632001.

2. The State Tax Officer-1,
O/o, Deputy Commercial Tax Officer,
Panruti Rural, Cuddalore,
Tamil Nadu.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.21437 of 2025
and
W.M.P.Nos.24204 and 24206 of 2025

18.06.2025