IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.21698 of 2025 and
WMP.Nos.24485 & 24486 of 2025

M/s. Lucky Traders,
Represented by its Proprietor,
Mr.Rohit Agarwal,
Door No.301/1B, Manali New Town,
Sadayankuppam, Chennai - 600 103. ... Petitioner

Vs.

1. The Assistant Commissioner (ST),
   Kelambakkam Asst. Circle,
   1st Floor, Room No.105, Mylapore - Triplicane,
   Office Buildings, No.46, Greenways Road,
   Chennai - 600 028.

2. The Deputy Commissioner (ST)
   GST Appeals, Chennai - II,
   Main Building, PAPJM Building (Main Building)
   Greams Road, Chennai - 600 006.

3. The Deputy Commissioner (ST)
   Chengalpattu Zone,
   No.26, Abirami Complex,
   Mahalakshmi Nagar, Thimmavaram,
   Chengalpattu - 603 101.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the first respondent in GSTIN 33AAFPR6734D1ZT/2020-2021 dated 17.10.2024, the order under section 74 dated 17.10.2024 and the summary of the order in Form GST DRC-07 dated 17.10.2024 issued in Reference No.ZD3310241167650 and the consequential impugned orders dated 03.06.2025 passed by the Second respondent in Memorandum in RC.No.1779/2025/A2 and in Form GST APL-02 and to quash the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017 and against the Principles of natural justice.

For Petitioner	:	Mr.P.Rajkumar
For Respondents	:	Ms.Amirtapoonkodi Dinakaran Government Advocate (Taxes)

ORDER

This Writ Petition has been filed challenging the impugned orders of the 1st respondent dated 17.10.2024 and the 2nd respondent dated 03.06.2025 and to quash the same.

2. Ms.AmirthaPoonkodi 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. The learned counsel for the Petitioner submitted that initially the 1st respondent issued a show cause notice dated 28.08.2024 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 1st respondent has passed the assessment order dated 17.10.2024, demanding the payment of tax along with penalty and interest for the Assessment Year 2020-2021 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 notice from the 3rd respondent. Immediately, the petitioner filed an appeal before the 2nd respondent with a delay of 129 days and the same was rejected by the 2nd Respondent vide order dated 03.06.2025, on the ground of delay. Being aggrieved over the assessment order as well as the order rejecting the appeal, 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 them, the petitioner was not aware of the same. Hence, he requested this Court to condone the delay and direct the 2nd respondent to dispose of the appeal within the stipulated period.

5. The learned Government Advocate (Taxes) appearing for the respondents would submit that since the 2nd 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 would submit that this Court may condone the delay subject to terms.

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 of the impugned assessment order and therefore they could not file appeal within time.

8. Considering the facts and circumstances of the case, this Court is of the view that the reasons assigned by the petitioner for delay in filing the appeal appears to be genuine. Therefore, this Court is inclined to set aside the impugned order passed by the 2nd respondent dated 03.06.2025 is set aside and condone the delay of 129 days in filing the Appeal before the 2nd Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 03.06.2025 passed by the 2nd respondent is set aside and the delay of 129 days in filing the appeal before the 2nd respondent is condoned subject to the payment of a sum of Rs.5,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The 2nd 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.

19.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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<u>Note</u>: Issue order copy on 24.06.2025

To

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   Chennai.

KRISHNAN RAMASAMY, J.

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