IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

CORAM

The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22319 of 2025
and
WMP.No.25131 of 2025

M/s. Traffic Steer (Rep by its Proprietor)
Mr. Uthra Nagaraj
No. B5, 6, Vishranti Apartments,
Burkit Road, T.Nagar,
Chennai 600 017.

...Petitioner

Vs.

1. The Commissioner (Appeals II)
The Office of the Commissioner of GST and Central Excise
Newry Towers, 2nd Floor, No.2054-I, II Avenue,
12th Main road, Anna Nagar, Chennai – 600 040.

2. The Deputy Commissioner of CGST and Central Excise
Guindy Division, Chennai South Commissionerate
692, M.H.U. Complex (8th Floor), Anna Salai,
Nandanam, Chennai – 600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to quash the order dated 30.04.2025 and condone the delay in filing of the appeal in Order-in-Appeal

No.84/2025 passed by the 1st Respondent, and direct the Respondent to carry on with the proceedings of the case.

For Petitioner	:	Mr.Aashishjain Lunia
For Respondents	:	Mr.Rajendran Raghavan Senior Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order of the respondent dated 30.04.2025 and condone the delay in filing of the appeal in Order-in-Appeal No.84/2025 passed by the 1st Respondent, and direct the Respondent to carry on with the proceedings of the case.

2. Mr.Rajendran Raghavan, learned Senior Standing Counsel 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 the respondent issued show cause notice dated 06.04.2022 to the petitioner, for which the petitioner filed its reply on 18.04.2022. But the respondent without considering the same has passed the Order-in-Original dated

30.12.2022. Subsequently, the Respondents-Department issued demand notice to the petitioner on 10.07.2023. The Order-in-Original was delivered to the petitioner only on 24.07.2023. Only after the issuance of the demand notice, the petitioner came to know of the assessment order. Immediately, the petitioner filed an appeal on 11.08.2023 before the respondent with a delay of 5 months and 18 days and the same was dismissed on the ground of delay. Being aggrieved, the petitioner is before this Court by way of this writ petition.

4. The learned senior standing counsel 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 would submit this Court may condone the delay subject to terms.

5. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the disputed tax at the time of

filing appeal and now ready to deposit another 10% of disputed tax over and above the 10% before the authority concerned.

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

7. In the present case, it was stated by the petitioner that though the petitioner filed reply to the show cause notice the 2nd respondent without considering the same has passed the assessment order and the petitioner came to know of the assessment order only after the receipt of the demand notice and the assessment order was delivered only on 24.07.2023. Therefore, the petitioner could not file appeal within time and that apart now the petitioner is ready to deposit 10% of disputed tax over and above 10% before the authority concerned.

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 30.04.2025 and condone the delay of 5 months and 18 days in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 30.04.2025 passed by the 1st respondent is set aside and the delay of 5 months 18 days in filing the appeal before the 1st respondent is condoned subject to payment of 10% of disputed tax demand, apart from statutory deposit of 10% before the 1st respondent.
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> (ii) On such payment being made, 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 petition is closed.

23.06.2025

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

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KRISHNAN RAMASAMY, J.

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