IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.07.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.22472 of 2025**
**and**
**W.M.P.Nos.25270 & 25271 of 2025**

M/s. Vaigai Agritech
Rep. by its Partner, Mr.Karthik J.R. ...Petitioner

Vs.

1.The Deputy Commissioner (GST) Appeal
Department of Commercial Taxes (GST)
Hasthampatty Salem – 636 007.

2. The State Tax Officer,
Kondalampatty Assessment Circle,
III Floor, Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty, Salem – 636 207.

...Respondents

**Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records in Ref.No.ZD3305250867444 on the files of the first respondent and to quash the impugned Appeal rejection order dated 09.05.2025 and to issue further direction to the first respondent to accept the representation dated 05.05.2025 of the petitioner to consider the sum of Rs.16,23,027/- recovered from the petitioner on 22.08.2024 as satisfaction of the requirement of pre-deposit of Rs.7,34,814/- under Section 107 (6) of the Act.

For Petitioner : Mr.S.Ramamurthy

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

**Order**

The challenge in this Writ Petition is to the order of rejection of Appeal passed by the first respondent and to issue further direction to the first respondent to accept the representation dated 05.05.2025 of the petitioner to consider the sum of Rs.16,23,027/- recovered from the petitioner on 22.08.2024 as satisfaction of the requirement of pre-deposit of Rs.7,34,814/- under Section 107 (6) of the Act.

**2.** The learned counsel appearing for the petitioner would submit that an assessment order was passed by the second respondent dated 24.04.2024 and a sum of Rs.16,23,027/- was also recovered from the petitioner's account through ECL on 22.08.2024; that challenging the said ex parte assessment order, the petitioner has filed a Writ Petition before this Court in W.P.No.31889 of 2024 and this Court vide order dated 28.10.2024 allowed the Writ Petition and set aside the impugned order, pursuant to which, re-assessment order dated 12.02.2025 was passed; that aggrieved by the said order, the petitioner preferred an Appeal before the first respondent and also made a representation to the first respondent dated 05.05.2025 and requested him to adjust 10% of the pre-deposit from the amount already recovered from the petitioner, however, the first respondent without considering the said representation, vide the impugned order dated 09.05.2025 dismissed the Appeal solely on the ground of failure to make 10% of the pre-deposit, and therefore, aggrieved by the said order, the present Writ Petition is filed.

**3.** Mr.T.N.C.Kaushik, learned Additional Government Pleader for the respondent would fairly submit that the matter may be remanded to the first respondent for fresh consideration with a direction to consider the representation made by the petitioner in regard to adjustment of 10% of the disputed tax towards mandatory deposit for filing Appeal from the amount already recovered from the petitioner, which would be considered and the Appeal would be taken up for file and disposed of in accordance with law.

**4.** Heard the learned counsel appearing for the petitioner and learned Additional Government Pleader for respondents and perused the materials available on record.

**5.** Initially, an assessment order was passed by the second respondent dated 24.04.2024 and in furtherance of the said order, recovery proceedings were initiated against the petitioner, whereby, a sum of Rs.16,23,027/- was recovered from the petitioner's account through ECL on 22.08.2024. Challenging the said ex parte assessment order, the petitioner has filed a Writ Petition before this Court in W.P.No.31889 of 2024 and this Court vide order dated 28.10.2024 allowed the said Writ Petition and remanded the matter back for fresh consideration before the second respondent, pursuant to which, re-assessment order was passed on 12.02.2025. Aggrieved by the said order, the petitioner preferred an Appeal before the first respondent and along with the said Appeal, the petitioner also made a representation dated 05.05.2025 and requested the first respondent to adjust 10% of the disputed tax as mandatory condition for filing Appeal from the amount, which was already recovered from the petitioner through ELC on 22.08.2024, however, the first respondent without considering the said representation, vide the impugned order dated 09.05.2025 dismissed the Appeal, which is not fair, inasmuch as, the said order is confiscatory in nature, as the first respondent failed to consider the amount that has already been recovered from the petitioner towards satisfaction of the requirement of pre-deposit but also requires the petitioner to make such pre-deposit in addition to the amount already required, which is an onerous economic condition and suffers from the vice of arbitrariness. Hence, this Court is inclined to pass/issue the following order/directions

i) The impugned order of rejection of Appeal passed by the first respondent dated 09.05.2025 is set aside.

ii) The first respondent is directed to consider the representation made by the petitioner dated 05.05.2025 to consider the sum of Rs.16,23,027/- recovered from the petitioner on 22.08.2024 as satisfaction of the requirement of pre-deposit of Rs.7,34,814/- and shall pass orders towards restoration of the Appeal on its file within a period of three weeks from the date of receipt of a copy of this order and dispose of the Appeal in accordance with law.

**7.** In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected miscellaneous petitions are closed.

**02.07.2025**

sd

Index : yes/no
Neutral Citation : yes/no

To
1. The Deputy Commissioner (GST) Appeal
Department of Commercial Taxes (GST)
Hasthampatty Salem – 636 007.

2. The State Tax Officer,
Kondalampatty Assessment Circle,
III Floor, Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty, Salem – 636 207.

**Krishnan Ramasamy,J.,**

sd

**W.P.No.22472 of 2025**

**02.07.2025**