IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22805 of 2025 and
WMP.Nos.25621 & 25623 of 2025

Tvl. Media Plus
Represented by its Proprietor,
Thiru Anand Prasanmal Jain,
No.11/99, VOC Street,
Govindapuram, K V Kuppam,
Vellore – 632 201

...Petitioner

Vs.

1. State Tax Officer,
Gudiyatham (East) Assessment Circle,
Gudiyatham,

2. Deputy Commissioner (Appeal),
GST Appeal,
Commercial Taxes Building,
Bharathiar Salai,
Fort Round, Vellore – 632 001

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the impugned order of the 1st respondent in DRC-07 Ref.No.ZD3309230590794 dated 11.09.2023 accompanied with detailed proceedings in GSTIN 33ASCPJ3341F1ZA/2022-23 dated 11.09.2023 passed under Section 74 of the Tamilnadu Goods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 and appeal rejection order of the 2nd respondent dated 25.02.2025 in reference No. ZD330225255227L and quash the same.

For Petitioner : Mr.T.Suresh

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

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (T), takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 11.09.2023 passed by the 1st respondent and consequential rejection of the 2nd respondent dated 25.02.2025 and to quash the same.

3. The learned counsel for the Petitioner submitted that the 1st respondent issued show cause notice dated 30.01.2023, followed by three reminders dated 30.06.2023, 24.07.2023 and 18.08.2023 to the petitioner by uploading the same in the GST portal. Therefore, the petitioner was not aware of the show cause notice and hence failed to file its reply. Since the petitioner failed to file reply to the show cause notice, the 1st respondent passed the impugned assessment order dated 11.09.2023 and the same was also uploaded in the GST portal. The petitioner came to know of the impugned assesement order belatedly. Immediately after coming to know of the assessment order, the petitioner filed an appeal before the 2nd respondent on 10.07.2024 with a delay of 183 days and the same was rejected by the 2nd respondent on the ground of delay. He therefore requested this court to condone the delay and direct the 2nd respondent to take the appeal on file.

4. The learned Additional Government Pleader (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 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 5% 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. Heard both sides and also perused the materials available on record.

8. In the present case, since all the notices were uploaded in the GST portal without serving the physical copy to the petitioner, the petitioner was not aware of the same and could not file its reply which resulted in the passing of impugned assesement order and the same was also uploaded in

the GST portal. The petitioner came to know of the assesement order belatedly. Therefore, the petitioner could not file appeal within time and that apart now the petitioner is ready to deposit 5% of disputed tax over and above 10% before the authority concerned.

9. 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 2nd respondent dated 25.02.2025 and condone the delay of 183 in filing the Appeal before the 2nd Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 11.09.2023 passed by the 2nd respondent is set aside and the delay of 183 days in filing the appeal before the 2nd respondent is condoned subject to payment of 5% of disputed tax demand, apart from statutory deposit of 10% before the 2nd respondent.

(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.

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

25.06.2025
(1/3)

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

1. State Tax Officer,
Gudiyatham (East) Assessment Circle,
Gudiyatham,

2. Deputy Commissioner (Appeal),
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Commercial Taxes Building,
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KRISHNAN RAMASAMY, J.

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