IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23326 of 2025
& W.M.P.Nos.26202 & 26204 of 2025

Tvl.Pioneer Engineers
Rep. by its Partner, Thiru Mustafa Yousufi Kutbuddin,
No.163, Shebam Complex,
Prakasam Salai, Broadway, Chennai-600 108

... Petitioner

Vs.

1. Deputy State Tax Officer-II,
Loansquare Assessment Circle,
Integrated Commercial Taxes Office Complex,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai-600 003.

2. Deputy Commissioner (ST)
GST Appeal, Chennai II,
CT Main Building, 2nd Floor,
Greams Road, Chennai-600 006

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the impugned order on the file of the 1st respondent in DRC-07 Ref.No.ZD3307240387961 dated 03.07.2024 passed under Section 74 of the Tamilnadu Goods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 herein after referred to as GST Act, 2017 and order in reference ZD330525030236R dated 06.05.2025 passed by the 2nd respondent and quash the same as illegal and devoid of merits

For Petitioner : Mr.T.Suresh

For Respondent : Mr.C.Harsha Raj, SGP

ORDER

This writ petition has been filed challenging the impugned assessment order dated 03.07.2024 and the impugned rejection order dated 06.05.2025 passed by the respondents.

2. Mr.C.Harsha Raj, learned Special Government Pleader, 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 would submit that in this case, the show cause notice was issued by the respondent on 03.05.2024, for which a detailed reply was filed by the petitioner on 08.05.2024. However, without considering the said reply, the impugned assessment order came to be passed by the respondent. Due to the unavailability of the petitioner's accountant, they were not in a position to file the appeal in time. Thereafter, the appeal against the aforesaid assessment order was preferred by the petitioner with a delay of 50 days. Since the said delay is beyond the condonable period, the appeal was rejected by the respondent, vide impugned rejection order dated 06.05.2025, on the aspect of limitation. Hence, this writ petition has been filed.

4. Further, he would submit that the petitioner had already paid 10% towards statutory pre-deposit while filing the appeal and now, he is willing to pay additional pre-deposit of 5% of disputed tax amount. Therefore, he requests this Court to condone the delay in filing the appeal.

5. On the other hand, the learned Special Government Pleader appearing for the respondents would submit that though all the notices and orders were duly uploaded by the respondents, the petitioner had failed to file the appeal in time. Hence, she would contend that the said delay has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and also perused the materials available on record.

7. In the case on hand, without considering the reply filed by the petitioner, the assessment order came to be passed on 03.07.2024. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 23.11.2024 i.e., with a delay of 50 days. Since the delay was beyond he condonnable period, the said appeal was rejected by the respondent vide impugned rejection order dated 06.05.2025. According

to the petitioner, due to the non-availability of petitioner's accountant, they were unable to file the appeal within time.

8. The above reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. In such view of the matter, this Court is inclined to condone the delay, in filing the appeal against the impugned assessment order, on terms.

9. Therefore, though the petitioner had already paid 10% of the disputed tax amount as statutory pre-deposit while filing the appeal, considering the delay of 50 days, this Court directs the petitioner to pay additional 5% of the disputed tax amount to the respondents, as agreed by the petitioner. Accordingly, this Court passes the following order:-

> (i) Accordingly, the rejection order dated 06.05.2025 passed by the 1st respondent is set aside and the delay of 50 days in filing the appeal before the 1st respondent is hereby condoned, subject to the payment of additional 5% of the disputed tax amount by the petitioner to the 1st respondent.

(ii) Upon payment of the said amount, 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.

27.06.2025

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

To

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KRISHNAN RAMASAMY.J.,

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