IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 23437 of 2025
AND
WMP NO. 26302 OF 2025,WMP NO. 26300 OF 2025

M/s.Ree and Company Engineering Works,
Represented by its Partner,
Mr.Selvaraj Ilangovan,
New No. 16/24, Sowripalayam,
Masakkalipalayam Main Road,
Coimbatore-641028.

Petitioner(s)

Vs

1. The Deputy Commissioner (Appeal I)
Deputy Commissioner (ST) (FAC),
Goods And Service Tax Appeal,
Commercial Tax Building, Coimbatore 641 018.

2.The Commercial Tax Officer
Singanallur North Circle, Coimbatore-641 018.

3.The Assistant Commissioner ST FAC
Singanallur North Circle,
Coimbatore-641 018.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records pertaining to the impugned order in appeal vide FORM GST APL-02 in Ref No. ZD330125230544U dated 25.01.2025 issued by the 1st Respondent and quash the same.

For Petitioner(s): Mr.Derrick Sam

For Respondent(s): Mr.C.Harsha Raj
Spl. Govt. Pleader (taxes)

ORDER

This writ petition has been filed by the petitioner challenging the appeal rejection order dated 25.01.2025, passed by the 1st respondent.

2.Mr.C.Harsha Raj, learned Special Government Pleader (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.Learned counsel for the petitioner would submit that against the assessment order dated 23.04.2024, the petitioner filed the rectification application dated 16.07.2024. Subsequently, the petitioner was advised that appeal has to be filed against the assessment order. Therefore, the petitioner preferred an appeal against the assessment order before the 1st respondent with the delay of 11 days beyond the condonable period by making 10 % statutory pre-deposit. However, the 1st respondent had dismissed the appeal at the threshold on the ground of limitation on 25.01.2025. Thereafter, on 31.01.2025, the rectification application filed by the petitioner also came to be dismissed. He would further submit that the petitioner filed the rectification application within the limitation period and hence prayed to condone the delay and direct the 1st respondent to take the appeal on record, on any terms.

4.Learned Special Government Pleader appearing for the respondents would submit that since the appeal has been preferred beyond the statutory limitation period, the 1st respondent rejected the appeal. He would further submit that if the Court satisfied with the reason assigned by the petitioner for the delay, the Court may condone the delay and the petitioner may be directed to pursue the appeal in accordance with law.

5.Heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

6.Considering the submission made by the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents, it appears that the 1st respondent had dismissed the appeal at the threshold on the ground of limitation. However, the reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. Therefore, this Court is inclined to condone the delay in filing the appeal against the impugned assessment order. Accordingly, this Court passes the following order:

(i) The impugned appeal rejection order dated 25.01.2025 is hereby set aside and the delay in filing the appeal against the assessment order dated 23.04.2024 is hereby condoned on condition that the petitioner deposits 5% of the disputed tax amount in respect of the impugned assessment period in addition to the 10% statutory deposit already made, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

ii) The Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

7.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

30-06-2025

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

To

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KRISHNAN RAMASAMY J.

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