IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

CORAM

The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.23567 of 2025 and
WMP.Nos.26465 & 26467 of 2025

Tvl. Shankar and Co.,
(GSTIN: 33BBRPS2425J1ZC)
Represented by its Proprietor
M. Sivasankar,
514, Bharathiar Road, Maniakarampalayam,
Coimbatore 641006.

...Petitioner

Vs.

The Deputy Commissioner (ST)(FAC),
GST Appeals, Commercial Office Buildings,
Dr. Balasundaram Road, Coimbatore – 641 018.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records pertaining to the impugned appeal order in APL-04 bearing reference number ZD3304251034022 dated 12.04.2025 read with MP.No.597/2025 dated 21.03.2025 issued by the sole Respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondents : Mrs.K.Vasanthamala,
Government Advocate (T)

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondent. By consent, this 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 12.04.2025 passed by the respondent and to quash the same.

3. The learned counsel appearing for the petitioner would submit that challenging the assessment order dated 01.08.2022 the petitioner filed an appeal on 12.01.2024 before the respondent along with mandatory pre-deposit of 12.5%. Further, he would submit that an amnesty scheme for those who failed to file appeal under Section 107 against the orders [invoking tax liability] issued before 31.03.2023, was introduced vide notification 53/2023-CT dated 02.11.2023. The eligibility to opt this

scheme is that there should be tax liability in the assessment order issued prior to 31.03.2023. The mandatory pre deposit is 12.5% of the disputed tax liability and out of this 2.5% must be paid in cash and the appeal has to be filed on or before 31.01.2024. The petitioner has fulfilled all these conditions. But, the respondent without considering the said notification rejected the appeal vide impugned order dated 12.04.2025. Therefore, he prays for dismissal of this writ petition.

4. The learned Government Advocate (Taxes) appearing for the respondent would submit that though the order has been communicated to the appellants through online on 29.12.2021 and though the petitioner had time till 29.03.2022 to file appeal against the order, the petitioner filed the appeal belatedly. Therefore, the appeal was rejected. She therefore prays for dismissal of this writ petition.

5. Heard both sides. Perused the records.

6. A perusal of the notification No.53/2023-CT clearly shows that the petitioner is entitled to file appeal upto 31.01.2024 in the event if any order

is passed prior to 31.03.2023. The petitioner has filed appeal on 12.01.2024 i.e., well within the period of limitation. That apart, for availing the benefit under Notification No.53/2023 the petitioner is supposed to pay 2.5% of the disputed tax liability over and above the statutory pre deposit of 10% . The petitioner has also paid 12.5% of the disputed tax at the time of filing appeal. But, the respondent without application of mind and without considering the aforesaid notification has rejected the appeal.

7. In view of the same, this Court is inclined to set aside the impugned order dated 12.04.2025. Accordingly, this Court passes the following order:

(i) The impugned order dated 12.04.2025 is set aside and the matter is remanded to the respondent.

(ii) The respondent is directed to take the appeal on file and pass orders on merits and in accordance with law, as expeditiously as possible.

8. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To
The Deputy Commissioner (ST)(FAC),
GST Appeals, Commercial Office Buildings,
Dr. Balasundaram Road, Coimbatore – 641 018.

KRISHNAN RAMASAMY, J.

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