IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23643 of 2025
& W.M.P.Nos.26599 & 26601 of 2025

Tvl.Master Rigs and Spares
Rep. by its Proprietor
Mr.G.Vince
34/7-9, Palani Andavar Kovil Thottam,
Swamy Complex, Sankagiri Tiruchengode Road,
Seetharam Palayam, Tiruchengode - 637 209. ... Petitioner

Vs.

1.The Deputy Commissioner (GST) (Appeal),
2nd Floor, Commercial Taxes Building,
Pitchards Road, Salem - 636 007.

2.The State Tax Officer,
Inspection-III,
Salem (Intelligence) Division,
Commercial Taxes Building, Pitchards Road,
Hasthampatti, Salem - 636 007. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records leading to the issuance of appellate order bearing reference No:ZD330225145422U dated 15.02.2025 passed by the first respondent herein and quash the same, and direct the second respondent herein to lift the property attachment made vide notice bearing reference No:Roc.58/2025/A1 dated 05.06.2025.

For Petitioner : Ms.Chandrika.B

For Respondents : Ms.P.Selvi,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned rejection order dated 15.02.2025 passed by the 1st respondent.

2. Ms.P.Selvi, learned Government Advocate, 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 *ex parte* assessment order came to be passed by the 2nd respondent on 11.09.2024. Since the petitioner was not well at that point of time, he was not able to file their appeal within time. Thereafter, the appeal against the aforesaid assessment order was preferred by the petitioner with a delay of 48 days. Since the said delay is beyond the condonable period, the appeal was rejected by the first respondent, vide impugned rejection order dated 15.02.2025, on the aspect of limitation. Hence, she prayed to condone the delay in filing the appeal on any terms including any condition of additional pre-deposit.

4. On the other hand, the learned Government Advocate appearing for the respondents would submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and also perused the materials available on record.

6. In the case on hand, the *ex parte* assessment order came to be passed by the second respondent on 11.09.2024. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 29.01.2025, i.e., with a delay of 48 days. Since the delay was beyond the condonable period, the said appeal was rejected by the first respondent vide impugned order dated 15.02.2025. According to the petitioner, since he was not well at that time, they remained unaware of the said order and hence, they were unable to file the appeal within time.

7. 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 assessment order, on terms.

8. Therefore, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering

the delay of 48 days, this Court directs the petitioner to pay additional 5% of the disputed tax amount, as agreed by the petitioner, to the respondents. Accordingly, this Court passes the following order:

i) The impugned rejection order dated 15.02.2025 is set aside and the delay of 48 days in filing the appeal against the assessment order is hereby condoned, subject to the payment of additional 5% of the disputed tax amount by the petitioner to the respondent-Department.

ii) Upon payment of the said amount, the 1st respondent/Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

iii) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the petitioner's property is to be lifted. As a sequel, the second respondent is directed to lift the property attachment, immediately upon the production of a copy of this order.

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

01.07.2025

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

1.The Deputy Commissioner (GST) (Appeal),
2nd Floor, Commercial Taxes Building,
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KRISHNAN RAMASAMY.J.,

vm

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