IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 25506 of 2025
and W.M.P.Nos.28671 & 28673 of 2025

Tvl.Pupa Chemical Industries,
No. 133, Pillayar Kovil Street,
Periyakulathupalayam, Vengamedu, Karur - 6.
Represented by its Proprietor Mrs. K. Kavitha

Petitioner(s)

Vs

1.Deputy Commissioner (CT),
Integrated new Commercial Taxes Building,
III floor, 46, Pudur B Village, Erode 638 002.

2.State Tax Officer,
First Floor, Commercial Taxes Building,
46, Pudur B Village, Erode - 638002.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records of the 1st Respondent pertaining to Order dated 03.06.2025 (vide Reference No.

ZD330625017501T) quash the same and consequentially direct the 1st Respondent to condone the delay of 105 days in filing the Appeal vide AD330525095771V and restore the Appeal vide AD330525095771V on the file of the 1st Respondent.

(Prayer amended vide order dated 31.07.2025 made in WMP.30635/2025 IN WP.25506/2025 BY KRJ)

For Petitioner(s): Mr.K.M.C.Arunmokan

For Respondent(s): Ms.P.Selvi
Government Advocate (taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned order dated 03.06.2025 passed by the 1st respondent, rejecting the appeal filed by the petitioner against the assessment order dated 05.11.2024.

2.Learned counsel appearing for the petitioner would submit that the petitioner was issued with show cause notice dated 10.07.2024, pertaining to the financial year 2017-18, levelling various allegations on the petitioner and proposed to levy tax. Under such circumstances, since the petitioner's Chartered Accountant passed away in the month of July 2024, the petitioner was unable to file their reply to the said show cause notice. Consequently, the *ex parte* assessment order dated 05.11.2024 came to be passed. Subsequently, after the appointment of new auditor, the petitioner came to know that there were errors apparent on the face of it in the assessment order dated 05.11.2024 and therefore, filed the rectification application. However, without giving any opportunity the rectification application came to be dismissed. Therefore, the petitioner preferred an appeal before the 1st respondent against the assessment order dated 05.11.2024. However, the 1st respondent without excluding the time spent towards pursuing the rectification application, rejected the appeal on the ground of limitation. Therefore, the learned counsel for the petitioner, prayed to condone the delay of 105 days on any terms including any condition of additional pre-deposit and provide an opportunity to the petitioner to putforth their case by way of appeal.

3.Learned Government Advocate appearing for the respondents would submit that if the Court feels it appropriate and it is a fit case for consideration, the delay may be condoned with any terms and appropriate orders may be passed to take the appeals on record.

4.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

5.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate apeparing for the respondents, it is evident that since the petitioner's Chartered Accountant passed away in the month of July 2024, the petitioner was unable to file reply to the show cause notice dated 10.07.2024, which leads to the passing of *ex parte* assessment order dated 05.11.2024. Further, taking note of the fact that since the petitioner was pursuing the rectification application before the 2nd respondent they could not prefer an appeal in time, this Court is of the view that the reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine. For filing the appeal, the writ petitioner had already paid 10% of statutory pre-deposit. Since there occurred a delay, this Court is inclined to direct the petitioner to pay another 10% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following orders:-

(i) The delay of 105 days in filing the appeal against the assessment order dated 05.11.2024 is hereby condoned.

(ii)The Appellate Authority is directed to take the appeals on record without insisting upon the limitation aspect, subject to the payment of 10% of the disputed tax demand, in addition to 10% statutory pre-deposit, i.e totally 20% of the disputed tax amount in respect of the impugned assessment period and pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

6.With the above directions, this writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

31-07-2025
(4/7)

rst

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

To

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First Floor, Commercial Taxes Building, 46,
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KRISHNAN RAMASAMY J.

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