IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP Nos. 26507 & 26764 of 2025
AND
WMP Nos.29805, 29806, 30077 & 30078 of 2025

Annamar Bharatgas Agency,
Represented by its Proprietor V Priya,
No.129/19, Anna Nagar, Mohanur,
Namakkal-637 015.

Petitioner in all W.Ps

Vs

1.Deputy Commissioner (ST)(GST-Appeal),
Salem And Erode, Commercial Taxes Building,
Pitchards Road, Salem-636 007.

2.Assistant Commissioner (ST),
Namakkal Rural
Intergrated Commercial Taxes Building,
1st Floor BSNL Opp Mohanur Road,
Namakkal – 637 001.

Respondent
in W.P.No.26507 of 2025

1.Assistant Commissioner (ST),
Namakkal Rural
Intergrated Commercial Taxes Building,
1st Floor BSNL Opp Mohanur Road,
Namakkal – 637 001.

2.Deputy Commissioner (ST)(GST-Appeal),
Salem And Erode, Commercial Taxes Building,
Pitchards Road, Salem-636 007.

Respondent
in W.P.No.26764 of 2025

PRAYER in W.P.No.26507 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the impugned order of the first respondent passed in Form GST APL-02 in Reference No. ZD3303251796365 dated 24.03.2025 and to quash the same.

PRAYER in W.P.No.26764 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the impugned order of the first respondent passed in Reference No.ZD330424207723P dated 26.04.2024 – Tax period 2018-19 and to quash the same.

In both W.Ps

For Petitioner(s): Ms.Divya.A

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate (t)

ORDER

W.P.No.26507 of 2025 has been filed by the petitioner challenging the impugned appeal rejection order dated 24.03.2025, passed by the 1st respondent.

W.P.No.26764 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 26.04.2024, passed by the 1st respondent.

2.Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that in the present case, the show cause notice dated 31.01.2024 was issued by the Assistant Commissioner (ST), alleging the difference between GSTR 2A vs 3B for the Financial Year 2018-19. The petitioner's accountant filed the reply dated

23.04.2024, for the contentions raised in the show cause notice. However, the Assistant Commissioner (ST), rejected the reply filed by the petitioner and uploaded the summary of the impugned order dated 26.04.2024 in the GST portal. The petitioner was not aware of the impugned assessment order being uploaded in the GST portal and only when the petitioner received a call from the office of the Assistant Commissioner directing the petitioner to pay the arrears as there was a demand for the Financial Year 2018-19, the petitioner became aware of the impugned assessment order dated 26.04.2024.

5.He would further submit that aggrieved over the assessment order dated 26.04.2024, the petitioner filed an appeal before the Deputy Commissioner (ST) (GST-Appeal), with a delay of 4 day within the condonable period. However, the appeal got rejected on the ground that incomplete application was filed by the petitioner. Hence, the present writ petition has been filed to condone the delay and to direct the Deputy Commissioner (ST) (GST-Appeal) to take the appeal on record, on any terms.

6.Learned Government Advocate appearing for the respondents would submit that since the appeal has been preferred without providing any reason for the delay, the same was rejected by the Appellate Authority. She would further submit that if the Court satisfied with the reason assigned by the petitioner for the delay, the Court may condone the delay on any terms and the petitioner may be directed to pursue the appeal in accordance with law.

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

8.Considering the submission made by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents, it appears that the Appellate Authority had dismissed the appeal on the ground of incomplete application. 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 on condition to pay 10% of the disputed tax demand over and above the 10% statutory pre-deposit already made by the petitioner while filing appeal. Accordingly, this Court pass the following orders:-

(i) The impugned appeal rejection order dated 24.03.2025 is hereby set aside and the delay in filing the appeal against the impugned assessment order dated 26.04.2024 is hereby condoned on condition to pay 10% of the disputed tax demand over and above the 10% statutory pre-deposit already made by the petitioner.

ii) The petitioner is directed to re-present the appeal within a period of two weeks from the date of receipt of a copy of this order.

iii) The Appellate Authority is directed to take the appeal on record without insisting upon the limitation aspect, if it is otherwise in order, subject to the aforesaid deposit and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9.With the above directions, this Writ Petition in W.P.No.26507 of 2025 is disposed of. Since the impugned appeal rejection order dated 24.03.2025 is set aside, the Writ Petition in W.P.No.26764 of 2025 challenging the impugned assessment order dated 26.04.2024 stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

24-07-2025

rst

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

To

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Salem And Erode, Commercial Taxes
Building, Pitchards Road,
Salem-636 007.

2.Assistant Commissioner (ST),
Namakkal Rural
Intergrated Commercial Taxes Building
1st Floor BSNL - Opp Mohanur Road,
Namakkal.

KRISHNAN RAMASAMY J.

rst

WP No. 26507 of 2025

AND

WMP NO. 29806 OF 2025,

WMP NO. 29805 OF 2025

24-07-2025