IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 24359 of 2025
AND
WMP NO. 27414 OF 2025,WMP NO. 27416 OF 2025

Tvl.YMCA Health And Healthy Living Centre,
Rep By Its Executive Secretary,
Thiru.Solomon George Prince,
No.1753, Ymca Road, Pula Bai Desai Road,
Bangalore Chennai Bye Pass Road,
Vellore-632 004.

Petitioner(s)

Vs

1.State Tax Officer,
Vellore (South) Assessment Circle,
Commercial Taxes Building,
Bharathiar Salai, Fort Round,
Vellore-632 001.

2.Deputy Commissioner (ST),
GST Appeal, Commercial Taxes Building,
Bharathiar Salai, Fort Round,
Vellore- 632 001.

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 impugned order on the file of the 1st respondent in DRC-07 Ref.No.ZD331223241209S dated 28.12.2023 passed under Section 73 of the Tamilnadu Goods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 herein after referred to as GST Act, 2017 and order in reference ZD3302252648757 dated 26.02.2025 passed by the 2nd respondent.

For Petitioner(s): Mr.B.Syed Abdul Wakeel

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 28.12.2023 passed by the 1st respondent and consequential appeal rejection order dated 26.02.2025, passed by the 2nd respondent.

2.Mr.V.Prashanth Kiran, 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 appearing for the petitioner would submit that the petitioner was issued with show cause notice dated 26.10.2023, pertaining to the financial year 2017-2018. Since the said show cause notice was uploaded in the GST Portal and no physical initmation was made to the petitioner, the petitioner had no ocassion to open the GST Portal and they were unaware of the proceedings initiated against them. The petitioner's accountant also left the job abruptly without any intimation and therefore, the petitioner could not access the GST portal in the absence of the accountant. Hence, the petitioner could not file their reply/objection to the show cause notice dated 26.10.2023 and consequently, an *ex parte* assessment order dated 28.12.2023 came to be passed, which was also uploaded in the GST portal.

5.He would further submit that the petitioner preferred an appeal before the 2nd respondent, with the delay of 37 days beyond the prescribed period, by depositing 10% of the disputed tax demand in respect of the assessment period and the same was rejected on the ground of limitation. Therefore, the learned counsel for the petitioner, prayed to condone the delay 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.

6.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.

7.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.

8.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 the show cause notice was only uploaded in the GST portal and the physical copy of the said show cause notice was not furnished to the petitioner. Therefore, they were not aware of the issuance of show cause notice and the impugned order and therefore, the delay has occurred in filing the appeal. Thus, 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 5% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following orders:-

(i) The delay of 37 days in filing the appeal against the assessment order dated 28.12.2023 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 5% of the disputed tax demand, in addition to 10% statutory pre-deposit, i.e totally 15% 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.

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

07-07-2025

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

To

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Commercial Taxes Building,
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Vellore-632 001.

2.Deputy Commissioner (ST),
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KRISHNAN RAMASAMY J.

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