IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.07.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 24584 of 2025
and
W.M.P.Nos.27687 & 27689 of 2025

The Vellore District Cooperative Milk Producers Union Ltd.,
Rep. b its General Manager,
No.142, Arcot Road, Sathuvachari,
Vellore, T.N.- 632 009. ...Petitioner

Vs.

1. The Commissioner (Appeals-II)
Office of the Commissioner of GST & Central Excise (Appeals-II)
Newry Towers, 2nd Floor, No.2054-1, II Avenue,
12th Main Road, Anna Nagar, Chennai- 600 040.

2. The Joint Commissioner of Central Tax
Office of the Commissioner of GST & Central Excise (Appeals-II)
Newry Towers, 2nd Floor, No.2054-1, II Avenue,
12th Main Road, Anna Nagar, Chennai- 600 040.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records on the files of the 1st Respondent pertaining to Order-in-Appeal No. 69 of 2025 vide DIN No. 20250359KU000000A7C6 dated 27.03.2025 and quash the same and consequently direct the 1st Respondent to consider the matter afresh after issuance of the said summary order in Form GST DRC-07 and also direct the 2nd Respondent to issue summary order in Form GST DRC-07 in respect of Order-in-Original No.46 of 2023-GST (JC) vide DIN No. 20231159XL0000000F48 dated 22.11.2023 to the Petitioner.

For Petitioner : Mr.M.Praveen Balaji

For Respondents : Mr.B.Ramanakumar
Senior Standing Counsel

Order

The challenge in this Writ Petition is to the order passed by the first respondent dated 27.03.2025 and to quash the same, and for other consequential reliefs.

2. Mr.M.Praveen Balaji learned counsel appearing for the petitioner would submit that as against the Order-in-Original passed by the second respondent, the petitioner preferred an Appeal before the first respondent, but the same has been dismissed vide order dated 27.03.2025 for non-payment of pre-deposit (i.e. 10% of the tax demand, and aggrieved by the said order, the present Writ Petition is filed by the petitioner.

2.1 The learned counsel for the petitioner would submit that the Order-in-Original passed by the second respondent was served on the petitioner via. physical mode of service, and was neither uploaded nor was communicated electronically via. on-line Portal, and further, summary order in Form DRC-07 was not annexed and in the absence Form-DRC-07, the petitioner was uncertain as to whether an Appeal could be preferred, however, filed the Appeal under the belief that the first respondent would understand the procedural lapses made on the part of the second respondent, however, the first respondent without considering all those aspects, rejected the Appeal. Therefore, it is contended that non-payment of pre-deposit is neither wilful nor wanton, but, purely due to an inadvertent error, as, in the absence of Form DRC-07, the petitioner filed the Appeal with uncertainty, and hence, prays for setting aside the impugned order of rejection of the Appeal and to direct the first respondent/Appellate Authority to entertain the Appeal in accordance with law.

3. Mr.B.Ramanakumar, learned Senior Standing Counsel for the respondents would submit that the petitioner is a Vellore District

Cooperative Milk Producers Union Ltd, which is a Government Organisation, as such, they are supposed to make pre-deposit of 10% of the tax demand, which is mandatory for filing Appeal, and the reasons assigned by the petitioner due to uncertainty and inadvertence, the petitioner failed to make pre-deposit cannot be accepted, however, he fairly stated that, in the event, if this Court is inclined to consider the prayer of the petitioner, the same may be considered on payment of additional pre-deposit by the petitioner.

4. Heard Mr.M.Praveen Balaji learned counsel appearing for the petitioner and Mr.B.Ramanakumar, learned Senior Standing Counsel for the respondents and perused the materials available on record.

5. The petitioner has challenged the Order-in-Original passed by the second respondent by filing an Appeal, however, by virtue of the impugned order, the same came to be rejected by the first respondent/Appellate Authority on account of non-payment of pre-deposit (i.e.10% of the tax demand), which is mandatory for filing the Appeal. The reason assigned by the petitioner for such non-payment is due to the fact that the petitioner was served with the Order-in-Original physically and the same was neither uploaded in the Portal nor served through electronically, via. on-line portal and the said order was not annexed with Form DRC-07, as mandated under Rule 142 (5) of the CGST Rules, and in the absence of Form DRC-07, having not uploaded by the second respondent, the petitioner was uncertain as to whether Appeal could be preferred or not, and with such uncertainty, the petitioner has inadvertently failed to make the pre-deposit at the time of filing Appeal.

6. Though the reason assigned by the petitioner for non-payment of pre-deposit is genuine or not, this Court, considering the fact that the petitioner-Cooperative Milk Union, is a Government Organisation, without going into the veracity of such statement, is inclined to grant one more opportunity to the petitioner to file the Appeal, subject to certain terms. as deprivation of such opportunity would result in huge loss to the petitioner-Union.

6.1 Accordingly, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order of rejection of the Appeal dated 27.03.2025 passed by the first respondent/Appellate Authority is set aside.

ii) Taking into consideration of the fact that out of total tax demand of 2.7 crores, 10% of the disputed tax would comes around to a sum of Rs.23,00,000/-, the first respondent/Appellate Authority is directed to entertain the Appeal subject to the payment of Rs.30,00,000/- (Rupees Thirty Lakshs only) as pre-deposit by the petitioner, which includes 10% of the statutory deposit within a period of four weeks from the date of receipt of a copy of this order and dispose of the Appeal in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

21.07.2025

sd
Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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