IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2025

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Writ Petition Nos.24506 & 22065 of 2025
and
Writ Miscellaneous Petition Nos.27613, 24804 & 24805 of 2025

W.P.No.24506/2025:

Dhiraj Rajmal Jain ... Petitioner

..Vs..

1.Deputy Commissioner (ST) (GST Appeal-1),
PAPJM Building, Greams Road,
2nd Floor, Chennai – 600 006.

2.The Deputy Commercial Tax Officer,
Vallalar Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai, Tamil Nadu – 600 003. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records on the file of the first respondent with the reference ZD330525032154T and quash the impugned appeal rejection order dated 06.05.2025 as arbitrary.

W.P.No.22065/2025:

Dhiraj Rajmal Jain ... Petitioner

..Vs..

The Deputy Commercial Tax Officer,
Vallalar Assessment Circle,
No.32, Elephant Gate Bridge Road,
Chennai, Tamil Nadu – 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records in GSTIN No:33AIHPJ8066E1ZB/2019-2020 on the file of the Respondent and quashing the impugned order dated 30.08.2024 with the reference No.ZD3308242933190 for the FY 2019-20 passed by the Respondent as arbitrary.

For Petitioner in both WPs : M/s.Ann Priscilla Swarnakumari

For Respondent in both WPs : Mr.V.Prashanth Kiran, Government Advocate (Taxes)

COMMON ORDER

These writ petitions have been filed challenging the impugned Appeal Rejection Order dated 06.05.2025 and also challenging the impugned order for the Financial Year 2019-2020 dated 30.08.2024.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case,

on 27.05.2024, the show cause notice was uploaded by the respondent in the GST Common Portal. The petitioner, being unaware of the said notice, had failed to file their reply in time. Under these circumstances, the impugned assessment order came to be passed by the respondent. Aggrieved over the said assessment order, an appeal was preferred by the petitioner with a delay of 90 days. Since the said delay is beyond the condonable period, the appeal was rejected by the respondent, vide impugned rejection order dated 06.05.2025, on the aspect of limitation. Hence, these writ petitions have been filed.

4. Further, he would submit that the petitioner had already paid 10% towards statutory pre-deposit while filing the appeal and now, he is willing to pay additional 15% of disputed tax amount to the respondent. Therefore, he requests this Court to set aside the impugned assessment order and grant an opportunity to the petitioner to present their case before the respondent.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that in this case, though the show cause notice was uploaded in the GST Common portal, thereafter, three subsequent notices

were sent to the petitioner through RPAD. Even after the receipt of said communications, the petitioner had neither filed their reply nor appeared before the respondent for personal hearing. Under these circumstances, the impugned assessment order came to be passed by the respondent. Hence, he requests this Court to pass appropriate orders on terms.

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

7. In the case on hand, initially, the show cause notice dated 27.05.2024 was uploaded by the respondent in the GST Common Portal. Being unaware of the said notice, the petitioner had failed to file their reply. Under these circumstances, the *ex parte* assessment order came to be passed on 30.08.2024. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 31.03.2025, i.e., with a delay of 90 days. Since the delay was beyond the condonnable period, the said appeal was rejected by the respondent vide impugned order dated 06.05.2025. According to the petitioner, since the impugned assessment order was uploaded in the GST Common portal and no

physical copy was issued to the petitioner, they remained unaware of the said assessment order and hence, they were unable to file the appeal within time.

8. According to the petitioner, all the communications were uploaded by the respondent in the GST Common Portal and hence, they were unable to participate in the proceedings before the respondent. However, on perusal of the impugned assessment order dated 30.08.2024, it appears that though the show cause notice was uploaded in the GST Common portal, thereafter, three subsequent notices were sent to the petitioner through RPAD. However, even after the receipt of communications from the respondent, the petitioner had neither filed their reply nor appeared for personal hearing.

9. In view of the above, it is crystal clear that though the respondent had provided sufficient opportunities, due to the inaction on the part of the petitioner, they had given up their rights for personal hearing and filing of reply in these cases. However, normally, an Assessee will have two opportunities to present their case. One is before the Assessing Officer and another is before the Appellate Authority. The Appellate Authority will also have similar power of the Assessing Officer to adjudicate the petitioner’s case.

10. Therefore, in the interest of justice, this Court is inclined to grant liberty to the petitioner to file an appeal before the concerned Appellate Authority on terms. Hence, though the petitioner had already paid 10% of the disputed tax amount as statutory pre-deposit while filing the appeal, considering the delay, this Court directs the petitioner to pay additional 10% of the disputed tax amount to the respondents. Accordingly, this Court passes the following order:-

(i) Accordingly, the appeal rejection order dated 06.05.2025 passed by the 1st respondent/Appellate Authority is set aside and the delay of 90 days in filing the appeal before the 1st respondent is hereby condoned, subject to the payment of additional 10% of the disputed tax amount by the petitioner to the respondents.

(ii) Thereafter, 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 sufficient opportunity to the petitioner, as expeditiously as possible.

12. With the above directions, the writ petition in WP.No.24506 of 2025 is disposed of. The writ petition in W.P.No.22065 of 2025, which has been

filed against the impugned assessment order, is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

14.07.2025

ssi
Index : Yes
Speaking Order : Yes /No
Neutral Citation Case: Yes/No

To:

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2.The Deputy Commercial Tax Officer,
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No.32, Elephant Gate Bridge Road,
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KRISHNAN RAMASAMY, J.

nsa/ssi

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