IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 24688 of 2025
AND
WMP NO. 27834 OF 2025,WMP NO. 27833 OF 2025

M/s.M.J Ahamed and sons
Rep by its Proprietor - Ahamed Basha
Jani Maraikkayar
No. 5/b, Hazarath makkan, Vellore,
Tamil Nadu – 632004.

Petitioner(s)

Vs

1.The Assistant Commissioner ST,
Vellore Assessment Circle, Vellore.

2.The Deputy Commissioner (CT),
Vellore.

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 relating to the 1st Respondent order in GSTIN 33AAKPF7285N1Z7/2018-2019 dated

25.09.2024 along with consequential proceedings of summary of order under section 74 vide FROM in GST DRC -07 vide ref no.ZD3309241695137 for the tax period 2018-19 along with the consequential proceedings of Acknowledgment for submission of appeal in FORM GST APL-02 passed by the 2nd Respondent vide ref no ZD330425069333l dated on 08.04.2025 to quash the same.

For Petitioner(s): Ms.R. Hemalatha

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

ORDER

This writ petition has been filed challenging the impugned assessment order dated 25.09.2024, passed by the 1st respondent, relating to the Tax period 2018-19 and the consequential appeal rejection order dated 08.04.2025, passed by the 2nd 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 appearing for the petitioner would submit that, in the present case, the show cause notice was issued on 24.06.2024, alleging that the petitioner wrongly availed Input Tax Credit during the Financial Year 2018-19. During that period, since the petitioner was suffereing from serious health issue and was under medical treatment, they could not participate in the assessment proceedings and submit their objection. Therefore, the impugned *ex parte* assessment order dated 25.09.2024 came to be passed.

5.He would further submit that the petitioner after knowing about the impugned assessment order being passed by the 1st respondent, had preferred an appeal before the 2nd respondent by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation vide order dated 08.04.2025. Hence, he 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 on 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 above submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents and upon perusal of the materials, it is evident that according to the petitioner, since he was under medical treatment, he could not participate in the assessment proceedings and even could not file appeal in time and therefore, the delay has occurred. The reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. Hence, his Court is inclined to condone the delay of 35 days in filing the appeal against the impugned assessment order.

9.Accordingly, this Court pass the following orders:-:

(i) The delay of 35 days in filing the appeal against the impugned assessment order dated 25.09.2024 is hereby condoned 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.

(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 and consider the said appeal filed by the petitioner on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

10.With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

09-07-2025

rst

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

To

1.The Assistant Commissioner ST
Vellore Assessment Circle, Vellore.

2.The Deputy Commissioner CT
Vellore.

KRISHNAN RAMASAMY J.

rst

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