IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 24780 of 2025
and W.M.P.Nos.27927 & 27928 of 2025

Kannan Suresh
Proprietor of M/s.Vijay Steels,
No. 32/ 304 T. H. Road,
New Washermenpet, Chennai 600 081.

Petitioner(s)

Vs

The Assistant Commissioner (ST)(FAC),
Tondiarpet Assessment Circle,
Integrated Commercial Taxes Offices Building,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the 1st respondent in GSTN 33BGEPS1574A1ZQ/ 2019-20 dated 25.05.2024, the order under Section 73 dated 25.05.2024 and the summary of the order in Form GST DRC-07 dated 25.05.2024 issued in Reference No.ZD33052423621P and the consequential impugned orders dated 06.05.2025 passed by the 2nd respondent in Form GST APL-02 having reference No.ZD3305250321105 and quash the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017 and against the principles of natural justice.

For Petitioner(s): Mr.Benuel Ritesh Rajkumar

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 25.05.2024 passed by the 1st respondent and the consequential appeal rejection order dated 06.05.2025 passed by the 2nd respondent.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader 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 the show cause notice dated 10.11.2023, pertaining to the financial year 2019-2020. 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. Therefore, the petitioner could not file their reply/objection to the show cause notice dated 10.11.2023 and consequently, an *ex parte* assessment order dated 25.05.2024 came to be passed, which was also uploaded in the GST portal.

5.He would further submit that the petitioner came to know about the impugned assessment order being passed only when he received a call from the 1st respondent and immediately he preferred an appeal before the 2nd respondent. However, the same was rejected on the ground of limitation since there was delay of 127 days in filing the appeal. He would also submit that the entire disputed tax demand has been recovered by the respondents and therefore, he prayed to condone the delay and provide an opportunity to the petitioner to putforth their case by way of appeal.

6.Learned Additional Government Pleader 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 and appropriate orders may be passed to take the appeals on record subject to the verification of recovery of the entire disputed tax demand.

7.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader 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 Additional Government Pleader 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. Accordingly, this Court passes the following orders:-

(i) The delay of 127 days in filing the appeal against the assessment order dated 25.05.2024 is hereby condoned subject to the payment of costs of Rs.5,000 (Rupees Five Thousand Only) to The Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of a copy of this order.

(ii) The petitioner is directed to re-present the appeal before the Appellate Authority within a period of four 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, subject to the verification of recovery of the entire disputed tax demand 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.

09-07-2025
(3/3)

rst

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

To

1.The Assistant Commissioner (ST)(FAC),
Tondiarpet Assessment Circle, Integrated
Commercial Taxes Offices Building,
Chennai North Division,
No.32, Elephant Gate Bridge Road,
Chennai-600 003.

2.The Deputy Commissioner (CT),
GST Appeals,Chennai I Main Building,
PAPJM Building(Main Building),
Greams Road, Chennai 600 006.

KRISHNAN RAMASAMY J.

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