IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.24953 of 2025
and W.M.P.Nos.28109 & 28112 of 2025

Ahmed Basha Mohamed Ali,
Proprietor,
M/s.AIM Marketing,
No.49/4, BRK Complex, Bagalur Road,
Hosur, Krishnagiri – 635 109.

...Petitioner

Versus

1.The Deputy Commissioner (CT),
State Goods and Services Tax (Appeal),
Salem Division, Commercial Tax Building,
Salem – 636 007.

2.The Assistant Commissioner (ST) (FAC),
Hosur (South) – III Circle,
State Goods and Services Tax,
Krishnagiri District – 635 109.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records pertaining to order passed by the 1st respondent in Reference No.ZD3306250933673 dated 10.06.2025 and quash the same as illegal, incompetent and ultravires and consequently, direct the 1st respondent to take the appeal filed by the petitioner on 06.06.2025 on record and decide it on merits in accordance with law.

For Petitioner	:	Mr.Mohamed Afridi for Mr.AM.Udhayaraj
For Respondents	:	Mrs.K.Vasanthamala, Government Advocate (Tax)

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Tax) takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought in this writ petition is to quash the Order dated 10.06.2025 bearing Reference No.ZD3306250933673 passed by the 1st respondent and consequently, direct the 1st respondent to take the Appeal filed by the petitioner on 06.06.2025 and decide it, on merits and in accordance with law.

4. The brief facts of the case are that the petitioner is engaged in the business of supply of footwear items and safety shoes to various companies across South India. The petitioner has been duly filing its returns and

paying all the statutory taxes. On scrutinization of the returns filed by the petitioner for the Financial Year 2018-2019, it was found by the Officials that there was a mismatch between GSTR-1 and GSTR-3B. Hence, the 2nd respondent passed the Assessment Order dated 06.08.2024, imposing a demand of Rs.4,82,742/- comprising tax, interest and penalty on the petitioner. Thereafter, on 03.06.2025, the ICICI Bank debited a sum of Rs.4,82,742/- from the petitioner's Bank Account pursuant to the Notice dated 29.05.2025 issued by the 2nd respondent, which came to the knowledge of petitioner on 04.06.2025. Immediately, thereafter, the petitioner filed an Appeal dated 06.06.2025 before the 1st respondent, but, the same was rejected by the 1st respondent vide Order dated 10.06.2025 on the following two grounds:

(i) Delay in submission of Appeal and

(ii) 10% of disputed tax amount was not paid

Aggrieved over the same, the petitioner has filed this writ petition for the relief stated *supra*.

5. The learned counsel for the petitioner submitted that the aforesaid discrepancy was purely due to the inadvertent error of petitioner's then

Accountant who erroneously reported the outward supplies in GSTR-1 using 18% tax rate slab instead of 5% correct tax rate applicable to the said supplies and paid in GSTR-3B.

5.1. It is further submitted by the learned counsel for the petitioner that prior to the passing of Assessment Order dated 06.08.2024, the respondent-Department had issued Notice in Form DRC-01A dated 24.07.2023, Show Cause Notice in DRC-01 dated 11.10.2023 and Reminder Notice dated 22.02.2024, but, the said notices were uploaded only in the GST portal and the same were not served to the petitioner through physical mode. It is submitted that the petitioner was unaware of the notices issued by the respondent-Department and thus, the petitioner was unable to reply to the same and was also unable to appear for personal hearing.

5.2. The learned counsel for the petitioner submitted that prior to the passing of Assessment Order, the petitioner was not heard by the 2nd respondent. Therefore, it is submitted that the Assessment Order suffers from violation of the principles of natural justice.

5.3. It is submitted by the learned counsel for the petitioner that the petitioner could not file the Appeal in time because the petitioner came to know about the Assessment Order only on 04.06.2025, when the petitioner's Banker informed the petitioner that a sum of Rs.4,82,742/- was debited from the petitioner's Bank Account on 03.06.2025.

5.4. The learned counsel for the petitioner also submitted that at the time of filing of Appeal, the petitioner was not in a position to make a pre-deposit of 10% of the disputed tax. It is submitted that now the petitioner is ready and willing to pay 5% of the disputed tax over and above the 10% of disputed tax payable towards statutory pre-deposit for filing the Appeal, if this Court is inclined to quash the Impugned Order and condone the delay of 73 days in filing the Appeal.

6. The learned Government Advocate (Tax) appearing for the respondents submitted that if the petitioner's Appeal is restored on the file of 1st respondent, the 1st respondent would take up the same and pass appropriate orders, within a time frame to be fixed by this Court.

7. Heard the learned counsel on either side and perused the materials available on record.

8. As far as this case is concerned, as against the Assessment Order dated 06.08.2024 passed by the 2nd respondent, the petitioner preferred an Appeal before the 2nd respondent on 06.06.2025. The petitioner could not file the Appeal in time because the petitioner came to know about the Assessment Order only on 04.06.2025, when the petitioner's Banker informed the petitioner that a sum of Rs.4,82,742/- was debited from the petitioner's Bank Account on 03.06.2025. The reason stated by the petitioner for belated filing of Appeal appears to be genuine. Further, the petitioner is willing come forward to pay 5% of the disputed tax, over and above the 10% of disputed tax payable towards statutory pre-deposit for filing the Appeal. Hence, this Court issue/pass the following directions/orders:

(i) The Impugned Order dated 10.06.2025 is quashed and the delay of 73 days in filing the Appeal before the 1st respondent is condoned and consequently, the petitioner's Appeal is restored on the file of 1st respondent on condition that the petitioner shall pay 15% of the disputed tax (additional 5% of the disputed tax along with 10% of disputed tax payable towards statutory pre-deposit for filing the Appeal) to the respondent-Department, within a period of two weeks from the date of receipt of a copy of this order.

(ii) After making the aforesaid payment, the petitioner shall produce the payment proof before the 1st respondent.

(iii) Upon production of such payment proof, the 1st respondent shall take up the petitioner's Appeal and pass appropriate orders on merits and in accordance with law, if it is otherwise in order.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.07.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

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KRISHNAN RAMASAMY, J.

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