IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24800 of 2025
& W.M.P.Nos.27956 & 27957 of 2025

Tvl.JAZ TRADERS,
Rep. by its Proprietor Ms.Jabuhar Nisha,
Having its registered office at
No.2, Noombal Village Road, Noombal,
Chennai, Tamil Nadu - 600 077. ... Petitioner

Vs.

1.The Deputy Commissioner (CT),
Office of the Deputy Commissioner (ST),
GST-Appeal, Chennai-II,
Main Building, 2nd Floor,
Greams Road, Chennai - 600 006.

2.The Deputy Commercial Tax Officer,
Office of the Deputy State Tax Officer II,
Integrated CT Building, No.4/109,
Chennai Bangalore Highways,
Varadarajapuram, Nazarathpet,
Poonamalle - 600 123. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the original impugned order of the impugned proceedings passed by the second respondent in the order vide GSTIN/33BPGPJ0054M1Z0/2019-20 dated 28.08.2024 with summary order in FORM GST DRC 07 vide ref No.ZD3308242555168 dated 28.08.2024 for the tax period 2019-20 along with the consequential proceedings of Acknowledgement for submission of appeal in FORM GST APL-02 passed by the first respondent vide ref No: ZD330625029034Q dated 03.06.2025 to quash the same.

For Petitioner : Mr.Mohamed Shakeera

For Respondents : M/s.P.Selvi,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 28.08.2024 & 03.06.2025, respectively passed by the respondents 1 & 2.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, this main writ

petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, a show cause notice dated 06.11.2023, alleging excess availment of Input Tax Credit and short payment of output tax on Form GSTR-3B, for which the petitioner has filed a reply on 14.11.2023. However, without considering the reply, the first respondent issued a notice dated 23.05.2024, demanding tax to the extent of Rs.3,62,918/- and called for the petitioner to appear for personal hearing. Since, the said notice was uploaded in the GST portal, the petitioner was not aware of the same and not appeared before the assessing officer. Under these circumstances, the second respondent passed the impugned order dated 28.08.2024, without providing an opportunity of persona hearing. Challenging the same, the petitioner filed a rectification application, which was rejected by the second respondent vide order dated 14.02.2025, against which the petitioner preferred an appeal before the first respondent. For the purpose of filing an appeal against the said order, the petitioner has deposited 10% of the disputed amount. However, he has filed the said appeal on 26.04.2025, after a delay of 121 days. Therefore, the said

appeal was rejected by the first respondent vide order dated 03.06.2025 on the grounds of limitation. He further submitted that since the assessment order is also under challenge in this writ petition, he requested this Court to condone the delay in filing the Appeal and direct the Appellate Authority/first respondent to consider and pass appropriate orders.

4. Further, he would submit that the petitioner has already deposited 10% of the disputed tax amount to the respondents and now, the petitioner is willing to pay additional 10% of the disputed tax amount. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondents by setting aside the impugned rejection order dated 03.06.2025.

5. On the other hand, the learned Government Advocate appearing for the respondents would further submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner. However, he fairly submitted that this Court may remit the matter back to

the respondent, subject to the payment of additional 10% of the disputed tax amount by the petitioner.

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, the impugned order came to be passed by the second respondent on 28.08.2024. Aggrieved over the same, an appeal was preferred by the petitioner on 26.04.2025, i.e., with a delay of 121 days. Since the delay was beyond the condonable period, the said appeal was rejected by the first respondent vide impugned order dated 03.06.2025. According to the petitioner, since they have filed a rectification application, they were unable to file the appeal within time.

8. Further, it was submitted by the learned counsel for the petitioner that they had already deposited 10% of the disputed tax amount and now, he is willing to pay 10% of the disputed tax amount. In such view of the matter, this Court is inclined to set aside the impugned order

dated 03.06.2025, by condoning the delay in filing the appeal against the order 28.08.2024, since the reason assigned by the petitioner appears to be genuine.

9. Accordingly, this Court passes the following order:

i) The impugned order dated 03.06.2025, is set aside and the delay of 121 days in filing the appeal before the Appellate Authority is condoned, subject to the payment of additional 10% of the disputed tax to the respondents as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

ii) Upon such payment made by the petitioner, the first respondent/Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

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

09.07.2025

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

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