IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24811 of 2025
& W.M.P.Nos.27970, 27972 & 27974 of 2025

M/s.Sivanandha Medical,
Rep. by its Proprietor Mr.Vijayakumar (HUF),
No.35/220 Panakal Street,
Kaveripattinam,
Krishnagiri - 635 112.
Tamil Nadu. ... Petitioner

Vs.

1.The Commissioner,
O/o The Principal Secretary/Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Deputy Commissioner (ST) Appeals,
Salem.

3.The Assistant Commissioner,
Krishnagiri-I Circle,
Krishnagiri. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent herein viz., the Deputy Commissioner (ST) Appeals, Salem in proceedings GSTIN/TEMPID/UIN33AAIHV6127P1ZJ, dated 26.04.2025, in rejecting the appeal for delay in submission by confirming the order of the third respondent herein viz., The Assistant Commissioner, Krishnagiri I Circle, Krishnagiri, in Proceedings GSTIN:33AAIHV6127P1ZJ/2018-19, dated 24.04.2024, quash the same and to direct the respondents herein to re-consider for fresh adjudication on the basis of the reply to be filed and on the basis of documents and facts available on records by condoning the delay and to decide on merits.

For Petitioner : Mr.A.K.Jayaraj

For Respondents : Mrs.K.Vasanthamala,
Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order dated 26.04.2025 passed by the second respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate, takes

notice on behalf of the respondents. By consent of the parties, these 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, all notices/communications were uploaded by the third respondent under the "View Additional Notices and Orders" column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the *ex-parte* assessment order dated 24.04.2024 came to be passed by the third respondent without providing any opportunity of personal hearing to the petitioner. Being unaware of the said assessment order, the petitioner has failed to file their appeal within time. Thereafter, the appeal against the aforesaid *ex-parte* assessment order was preferred by the petitioner with a delay of 6 months. Hence, the second respondent rejected the same vide rejection order dated 26.04.2025. Therefore, he prayed to set aside the rejection order and remand the matter to the second respondent for fresh consideration.

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 15% 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 26.04.2025.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner. However, she fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned assessment order. Hence, she requests this Court to dismiss this writ petition.

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 assessment order came to be passed by the third respondent on 24.04.2024. Aggrieved over the same, an appeal

was preferred by the petitioner on 23.04.2025, i.e., with a delay of 6 months. Since the same was filed beyond the period of limitation, the second respondent rejected the said appeal vide impugned rejection order dated 26.04.2025. According to the petitioner, since he was not aware of the said assessment order, he could not file the appeal within the original limitation period.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% of disputed tax amount at the time of filing the appeal and now, he is willing to pay additional 15% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned rejection order dated 24.06.2025, since the reason assigned by the petitioner appears to be genuine.

9. Accordingly, this Court passes the following order:

i) The impugned rejection order dated 26.04.2025 is set aside and the delay of 6 months in filing the appeal is hereby condoned and the matter is remanded to the respondents for fresh consideration, on condition that the petitioner shall pay 15% of the disputed tax amount to the respondents 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) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the concerned respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

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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To

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O/o The Principal Secretary/Commissioner of Commercial Taxes,
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Chennai - 600 005.

KRISHNAN RAMASAMY.J.,
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