IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25270 of 2025
& W.M.P.Nos.28444 & 28445 of 2025

M/s.Thaaraa Agencies,
Rep. by its Sole Proprietor,
Mr.Padmanabhan Venkateshwaran,
No.3/112A1, First Floor,
Maruthamalai Adivaram Bharathiyar University Post,
Coimbatore - 641 046,
Tamil Nadu. ... Petitioner

Vs.

1.The Deputy Commissioner (CT)(GST Appeals),
Office of the Deputy Commissioner (ST)(GST Appeals),
Coimbatore - 641 048.

2.The State Tax Officer,
Office of the Assistant Commissioner (ST),
Vadavalli Assessment Circle,
Coimbatore - 18. ... 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 impugned order dated 24.03.2025 issued vide reference No.ZD330325177937Z in FORM APL-02, in respect of appeal filed by the petitioner vide ARN AD331124049413I in GSTIN:33ACMPV3569P1ZM for the tax period 2018-2019 and quash the same and direct the first respondent herein to consider the above appeal filed by the petitioner and pass order on merits without taking into consideration the aspect of limitation.

For Petitioner	:	Mr.T.V.Suresh Kumar
For Respondents	:	M/s.P.Selvi, Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order dated 24.03.2025 passed by the first respondent.

2. M/s.P.Selvi, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, the 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, the second respondent issued a show cause notice dated 31.12.2023

to the petitioner, alleging that the petitioner has failed to mention the details of CESS in Form GSTR-01 and GSTR-3B and the petitioner had availed excess input tax credit. For the said show cause, the petitioner has filed his reply on 30.01.2024 and also attended the personal hearings. Without considering the said reply and clarifications provided during the personal hearing, the second respondent passed the order dated 29.04.2024, stating that the reply filed by the petitioner was not acceptable. Challenging the said order, a rectification application was filed on 20.05.2024, which was rejected on 09.09.2024 on the grounds that the tax payer has reported CESS in the Annual Return but, they have not reported the same in Monthly Returns of GSTR-3B. Therefore, the petitioner preferred an appeal against the order dated 29.04.2024 before the first respondent. However, the said appeal was rejected vide order dated 24.03.2025 on the aspect of limitation. Hence, the petitioner has come forward with the present writ petition.

4. To substantiate his claim, learned counsel for the petitioner placed reliance on the order passed by this Court in

W.P.(MD)Nos.27787 & 27788 of 2024 dated 22.11.2024, wherein, it is held that the "when the appeal is filed by the assessee as against the original order of assessment, the period of limitation shall be calculated from the date on which the rectification had been dismissed".

5. He would further submitted that the petitioner has already deposited 10% of the disputed tax amount to the respondents and now, the petitioner is willing to pay 10% of the disputed tax amount. Hence, he requested this Court to condone the delay in filing the Appeal and direct the Appellate Authority to consider and pass appropriate orders.

6. On the other hand, the learned Government Advocate appearing for the respondents would submit that in the event if this Court is inclined to remit back the matter to the respondents, the same would be considered and appropriate orders will be passed in accordance with law, subject to the payment of 10% of the disputed tax amount by the petitioner.

7. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and also perused the materials available on record.

8. In the case on hand, the assessment order came to be passed by the second respondent on 29.04.2024. Against which a rectification application was filed and the same was also rejected on 09.09.2024. Therefore, the petitioner preferred an appeal challenging the said assessment order on 21.11.2024, i.e., with a delay of 86 days. Since the delay was beyond the condonnable period, the said appeal was rejected by the first respondent vide impugned order dated 24.03.2025.

9. Though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the delay of 86 days, this Court directs the petitioner to pay additional 10% of the disputed tax amount, as agreed by the petitioner, to the respondents. In such view of the matter, this Court is inclined to condone the delay, in filing the appeal against the assessment order. Accordingly, this Court

passes the following order:-

i) The impugned appeal rejection order dated 24.03.2025 is set aside and the delay of 86 days in filing the appeal against the assessment order is hereby condoned, subject to the payment of additional 10% of the disputed tax amount by the petitioner to the respondent-Department within a period of three weeks from the date of receipt of a copy of this order.

ii) Upon payment of the said amount, the 1st 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.

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

11.07.2025

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

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