IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.25926 & 25930 of 2025
and
W.M.P.Nos.29162, 29163, 29169 & 29170 of 2025

Astra Ortho N Spine Center Private Limited
Rep. by Director, S. Sathish Kumar,
No.9 Radha Mohan Street Sankaran Avenue
Velachery Bypass Road Velachery
Chennai 600 042

... Petitioner in both petitions

Vs.

Assistant Commissioner (ST) V
Velachery Assessment Circle,
Room No.225 2nd Floor Anna Salai,
Nandanam, Chennai-600 035

... Respondents in W.P.No.25926 of 2025

1. Deputy Commissioner (Appeal)
GST Appeal Chennai-II.
No.1, Greams Road,
Commercial Tax Offices,
Annex Building, Chennai-600 006

2. Assistant Commissioner (ST) Velachery
Assessment Circle
Room No 225 2nd Floor
Anna Salai Nandanam,
Chennai 600 035

...Respondents in W.P.No.25930 of 2025

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

calling for the records relating to the Impugned Order vide FORM GST DRC - 07 bearing Reference Number ZD330225249853C dated 24.02.2025, passed by the Respondent, to quash the same

calling for the records relating to the Impugned Order vide FORM GST APL-02 bearing Reference Number ZD330725059183D dated 07.07.2025, passed by the 1st Respondent herein, to quash the same

For Petitioner
in both petitions : Mr.G.Shiva Kumar

For Respondent
in both petitions : Ms.Amirta Poonkodi Dinakaran, GA

COMMON ORDER

These writ petitions have been filed challenging the impugned assessment order dated 24.02.2025 and the appeal rejection order dated 07.07.2025 passed by the respondents.

2. Ms.Amirta Poonkodi Dinakaran, 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, all the notices were uploaded by the respondent in the GST common portal and since the GST Consultant of the petitioner had left the petitioner firm, the said notices had remained unnoticed by the petitioner, due to which, they were unable to file their reply. Under these circumstances, the *ex parte* assessment order came to be passed and uploaded in the same portal. Being unaware of the said order, the petitioner was not in a position to file the appeal in time. Thereafter, the

appeal against the aforesaid assessment order was preferred by the petitioner with a delay of 8 days. Since the said delay of 8 days is beyond the condonable period, the appeal was rejected by the respondent, vide impugned rejection order dated 07.07.2025, on the aspect of limitation. Hence, this writ petition has been filed.

4. Further, he would submit that the petitioner had already paid 10% towards statutory pre-deposit while filing the appeal. Therefore, he requests this Court to condone the delay in filing the appeal.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that though all the notices and orders were duly uploaded by the respondents, the petitioner had failed to file the appeal in time. Hence, she would contend that the said delay has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

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 *ex parte* assessment order came to be passed on 24.02.2025. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 02.07.2025, i.e., with a delay of 8 days. Since the delay was beyond the condonnable period, the said appeal was rejected by the respondent vide impugned order dated 07.07.2025. According to the petitioner, since the assessment order was passed in *ex parte* and the GST Consultant, who was handling the tax matters had left the petitioner's firm, the petitioner remained unaware of the said order and hence, they were unable to file the appeal within time.

8. The above reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. In such view of the matter, this Court is inclined to condone the delay, in filing the appeal against the impugned assessment order.

9. At this juncture, the learned counsel for the petitioner requested this Court to direct the respondents to release the attachment made on the bank account of the petitioner.

10. As far as above request is concerned, it is needless to state that once the appeal is numbered, there will be an automatic stay for the operation of impugned assessment order and as a sequel, there will not be any further recovery of disputed tax amount from the petitioner. Therefore, this Court passes the following order:-

> (i) The rejection order dated 07.07.2025 passed by the 1st respondent-Appellate Authority is set aside and the delay of 8 days in filing the appeal before the 1st respondent is hereby condoned.
>
> (ii) 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 sufficient opportunity to the petitioner, as expeditiously as possible.

11. With the above directions, the writ petition in WP.No.25930 of 2025 is disposed of. The writ petition in W.P.No.25926 of 2025, which has been filed against the impugned assessment order, is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

17.07.2025

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

To

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