IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2025

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.26809 of 2025**
**and**
**W.M.P.Nos.30138 and 30139 of 2025**

Krishnakumar ... Petitioner

**Vs.**

1. The Deputy Commissioner (Sales Tax),
No.161, Meenakshi Sundaranar Salai,
Brough Road,
Commercial Tax Buildings, CSI Institutions Campus,
Erode-638 001.

2. The Deputy Commercial Tax Officer,
Sathiyamangalam, Erode District.

... Respondents

**Prayer:**

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned summary order dated 28.08.2024 in DRC-07 vide Ref.No.ZD330824253878U passed by the 2nd respondent and the consequential dismissal of the impugned Appeal order dated 04.04.2025 vide Ref.No.ZD330425048552J passed by the 1st Respondent and quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the GST Act, 2017 and consequently direct the 1st respondent to hear the appeal filed by the petitioner on merits.

For Petitioner : Ms.R.Reshma

For Respondents : Ms. Amirthapoonkodi Dinakaran
Government Advocate
(Taxes)

**ORDER**

This writ petition has been filed challenging the impugned order dated 28.08.2024 passed by the 2nd respondent and the consequential dismissal of Appeal order dated 04.04.2025 passed by the 1st respondent and to quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the GST Act, 2017 and consequently direct the 1st respondent to hear the appeal filed by the petitioner on merits.

2. Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes) 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 submitted that the 2nd respondent passed the assessment order on 28.08.2024, as against which the petitioner filed an appeal before the 1st respondent on 21.11.2024 by making the statutory pre deposit of 10% and the same was also accepted by the 1st respondent on 02.01.2024. When the said appeal was pending for disposal, the petitioner wrongly filed an application under Section 128A(b) and (c) of the Act to seek withdrawal of the above appeal. Immediately, the petitioner made a representation to the 1st respondent seeking for rejection of the application filed by the petitioner for withdrawal of the appeal. But the 1st respondent without considering the same has allowed the application which was wrongly filed by the petitioner for withdrawal of the appeal. Being aggrieved, the petitioner again filed an appeal before the 1st respondent on 20.03.2025 with a

delay of 113 days, by making predeposit of 10% and the same was rejected on 04.04.2025 on the ground of delay.

4. The learned counsel for the petitioner would submit that the inadvertently the petitioner filed an application for withdrawal of the appeal and the same was allowed, despite the fact that the petitioner made a representation to the 1st respondent to reject the application for withdrawal of the appeal. He therefore prays to set aside the assessment and the order of the 1st respondent dated 04.04.2025, in rejecting the 2nd appeal filed by the petitioner, on the ground of delay.

5. The learned Government Advocate (Taxes) appearing for the respondents would submit that though the petitioner filed an appeal on 21.11.2024 challenging the assessment order, within time, inadvertently he filed an application seeking withdrawal of the appeal and the same was allowed. Thereafter, the petitioner had filed another appeal with delay and the same was rejected. However, he fairly submitted that the petitioner has made the pre deposit of 10% while filing both the appeals.

6. Heard both sides and also perused the materials available on record.

7. In the present case, initially though the petitioner filed an appeal within time, challenging the assessment order, inadvertently the petitioner filed an application for withdrawal of the said appeal. Immediately, the petitioner made a representation to the 1st respondent seeking for rejection of the application filed by the petitioner for withdrawal of the appeal. But the 1st respondent without considering the same has allowed the application which was wrongly filed by the petitioner for withdrawal of the appeal. Being aggrieved, the petitioner again filed an appeal before the 1st respondent on 20.03.2025 with a delay of 113 days and the same was rejected on 04.04.2025 on the ground of delay.

9. Though the petitioner has challenged the assessment order dated 28.08.2024 of the 2nd respondent and the order dated 04.04.2025,

passed by the 1st respondent, in rejecting the appeal filed by the petitioner on the ground of delay, this Court is of the considered view that if the petitioner intends to pursue the appeal, the order passed by the 1st respondent in allowing the application filed for withdrawal of appeal needs to be set aside.

10. In view of the same and since the petitioner has paid 20% of the disputed tax in total at the time of filing both the appeals, this Court is inclined to pass the following order:

(i) The order passed by the 1st respondent in the withdrawal application on 19.02.2025 is recalled.

(ii) The petitioner is directed to re-present the papers pertaining to the appeal dated 21.11.2024 to the 1st respondent and on receipt of the same, the 1st respondent is directed to take the appeal on record and pass orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, as expeditiously as possible.

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

**24.07.2025**

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

1. The Deputy Commissioner (Sales Tax),
   No.161, Meenakshi Sundaranar Salai,
   Brough Road,
   Commercial Tax Buildings, CSI Institutions Campus,
   Erode-638 001.

2. The Deputy Commercial Tax Officer,
   Sathiyamangalam, Erode District.

**KRISHNAN RAMASAMY.J.,**

arr

**W.P.No.26809 of 2025**

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