IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.26141 & 26145 of 2025
and
W.M.P.Nos. 29429, 29430 & 29436, of 2025

Pachamuthu Muthusamy ... Petitioners in both petitions

Vs.

1. The Deputy Commissioner (CT)
Salem.

2. The State Tax Officer (FAC),
Edappadi Assessment Circle,
Salem. ... Respondents in both petitions

PRAYER: Writ Petitions filed under Article 226 of Constitution of India, for issuance of Writ of Certiorari calling for the records on the file of the first respondent in Reference No.ZD330625455964 dated 23.06.2025 and Reference No.ZD330525020767E dated 05.05.2025 and quash the same.

For Petitioner in both Petitions : Mr.V.Srikanth

For Respondents in both Petitions : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

COMMON ORDER

The challenge in these writ petitions is to the rejection of the condone delay by the first respondent/Appellate Authority.

2. According to the petitioner, though the appeal was filed in time, the learned Government Advocate (Taxes) submitted that there is a delay of one day. Therefore, the appeal was rejected on 05.05.2025. Under those circumstances, due to the ill advice of the consultant, once again, the petitioner filed a petition and the same was rejected on 23.06.2025. On both occasions, they deposited 10% statutory deposit, based on the ill advice of the consultant. Therefore, these Writ Petitions are filed.

3. The learned Government Advocate (Taxes) submitted that the appeal was filed on 28.04.2025 with one day delay and the same may be condoned, subject to the payment of costs. Once the said delay is condoned, the appeal will be taken up for disposal.

4. In reply to the aforesaid submission of the learned Government Advocate (Taxes), the learned counsel for the petitioner requested this Court not to pass any orders in W.P.No.26141 of 2025 and the same may

be closed.

5. The learned counsel for the petitioner submitted that Mr.J.Sivaganesh was engaged as a consultant and as per his advice, the petitioner filed an appeal on 28.04.2025 to the first respondent, after the period of limitation, as against the order dated 27.01.2025 and the same was rejected on 05.05.2025 by the first respondent.

6. The learned counsel for the petitioner further submitted that while filing the appeal, the petitioner had made pre-deposit of 10%. Subsequently, as per the advice of the said Sivaganesh, the petitioner filed another appeal against the same assessment order dated 21.06.2025 and again, paid 10% of the disputed tax and the same was dismissed on 23.06.2025. In the present case also, Mr.Sivaganesh has not given proper advice to his client. Learned counsel for the petitioner further submitted that the said Sivaganesh is unqualified consultant as per the Tamil Nadu Goods and Services Tax Act, 2017. It was the Client, who approached the consultant and engaged him and therefore, it is not feasible for this Court to issue notice to the said Mr.J.Sivaganesh, seeking explanation as to the incorrect advice rendered by him, as he has not used his name anywhere.

Now-a-days, these practical issues are faced by several assessees.

7. It is pertinent to mention here that this Court comes across similar instances in several cases, extending ill advice to the clients by the consultants, who are all not qualified persons. Such kind of ill-advice leads to the fact that the clients are not in a position to appear before the Officers concerned with suitable reply supported by documents, which is purely on the negligence on the part of the consultant.

8. This Court feels that this type of wrong advice given by an unqualified person cannot be accepted. The respondent department is directed to issue note/circular to the assessees to engage consultants and get advice from qualified consultants. Otherwise, the assessees file petitions directly through employees or relatives. This Court is unable to resolve several issues of the assessees and the department will get proper reply from the assessee as to the consultant, who has given advice to the assessee, so that it will be useful for the proper adjudication and the ex-parte orders. The ill advice given by the unqualified consultant would generally be on account of the work burden in which they are used to advise very many clients. As and when the assessee approaches these type

of consultants, in order to ensure that the assessee does not go out of their hands, the unqualified consultants violate Acts. These are all aspects that would come across before the notice of this Court, while handling various cases. Therefore, the department is directed to come with proper circular to the assessee in respect of engagement of a qualified consultant. This Court feels that it is appropriate for the respondent department to issue direction in respect of engagement of Advisors, who have duly completed the examination conducted by the department and Chartered Accountants, Advocates, etc., as well and other officers mentioned under Section 116 of the Goods and Service Tax Act and Rules, 2005.

9. According to the petitioner, though there was no delay in filing this petition, it appears that there is a delay of one day. This Court is inclined to set aside the impugned order passed by the 1st respondent dated 05.05.2025 and condone the delay of 1 day in filing the Appeal before the 1st Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the order dated 05.05.2025 passed by the first respondent is set aside and the delay of 1 day in filing the appeal before the first respondent is condoned.

(ii) The first respondent 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.

(iii) The respondents are directed to instruct the concerned bank to defreeze the bank account of the petitioner immediately on production of the proof of payment, as already 20% has already been pre-deposited, while filing two appeals by the petitioner."

10. With the above directions, the writ petition No.26145 of 2025 is disposed of. In view of the order passed in W.P.No.26145 of 2025, W.P.No.26141 of 2025 is closed. Consequently, the connected miscellaneous petitions are also closed. No costs.

29.07.2025

dh
Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking order

To

1. The Deputy Commissioner (CT)
   Salem.

2. The State Tax Officer (FAC),
   Edappadi Assessment Circle,

Salem.

KRISHNAN RAMASAMY, J.

dh

W.P.Nos.26141 & 26145 of 2025

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