IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 26768 of 2025
AND
WMP NO. 13894 OF 2025,WMP NO. 30083 OF 2025,WMP NO. 30084 OF 2025,WP NO. 12307 OF 2025

Sri Moogambigai Enterprises,
Represented by its Partner Sundarrajan Prabhu,
No 211, BSA Complex, Gugai Erumapalayam,
Main Road, Salem, Tamil Nadu.

Petitioner(s)

Vs

1.Deputy Commissioner of Appeals (ST),
Department of Commercial Taxes,
Pitchards Road, Hasthampatti, Salem.

2.The Assistant Commissioner (ST),
Salem Town West Assessment Circle,
Departmental Of Commercial Taxes,
Pitchards Road, Hasthampatti,
Salem, Tamil Nadu – 636 006.

Respondents
in W.P.No.26768 of 2025

1.The Assistant Commissioner (ST),
Salem Town West Assessment Circle,
Department Of Commercial Taxes,
Pitchards Road, Hasthampatti,
Salem, Tamil Nadu – 636 006.

2.Deputy Commissioner of Appeals (ST),
Department of Commercial Taxes,
Pitchards Road, Hasthampatti,
Salem, Tamil Nadu – 636 006.

Respondent
in W.P.No.12307 of 2025

PRAYER in WP No. 26768 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the files of the First Respondent with the reference ZD330325156189B and quash the impugned appeal rejection order dated 20-03-2025.

PRAYER in WP No. 12307 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records in the impugned Order dated 30-04-2024 with the reference ZD330424258423K in the files of the First Respondent and quash the same as manifestly arbitrary, void, contrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

In both W.Ps

For Petitioner(s): Ms.Priscilla Swarnakumari

For Respondent(s): M/s.Amirta Poonkodi Dinakaran
Government Advocate (taxes)

COMMON ORDER

W.P.No.26768 of 2025 has been filed by the petitioner challenging the impugned appeal rejection order dated 20.03.2025 passed by the Appellate Authority/Deputy Commissioner of Appeals.

W.P.No.12307 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 30.04.2024 passed by the Assessing Officer/The Assistant Commissioner.

2.Learned counsel appearing for the petitioner would submit that the petitioner was issued with the show cause notice dated 14.08.2023, pertaining to the Tax Period 2018-19. In response, the petitioner filed their reply on 29.04.2024. However, the Assessing Officer without considering the reply of the petitioner had confirmed the proposals made in the show cause notice vide impugned assessment order dated 30.04.2024. Aggrieved over the same the petitioner filed a rectification application and the same was rejected by the Assessing Officer.

3.He would further submit that the petitioner thereafter preferred an appeal before the Appellate Authority, by depositing 10% of the disputed tax demand in respect of the assessment period. However, the same was rejected on the ground of limitation since there was a delay of 135 days, beyond the condonable period in filing the appeal. Since the petitioner was pursuing the rectification application, the delay has occurred and hence, the learned counsel for the petitioner, prayed to condone the delay on any terms including any condition of additional pre-deposit and provide an opportunity to the petitioner to putforth their case by way of appeal.

4.Learned Government Advocate appearing for the respondents would submit that if the Court feels it appropriate and it is a fit case for consideration, the delay may be condoned with any terms and appropriate orders may be passed to take the appeals on record.

5.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

6.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents, it is evident that since the petitioner was pursuing the rectification application, the delay has occurred in filing the appeal. Thus, this Court is of the view that the reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine. For filing the appeal, the writ petitioner had already paid 10% of statutory pre-deposit. Since there occurred a delay, this Court is inclined to direct the petitioner to pay another 10% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court pass the following orders:-

(i) The delay in filing the appeal against the assessment order dated 30.04.2024 is hereby condoned.

(ii)The Appellate Authority is directed to take the appeals on record without insisting upon the limitation aspect, subject to the payment of 10% of the disputed tax demand, in addition to 10% statutory pre-deposit, i.e totally 20% of the disputed tax amount in respect of the impugned assessment period and pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

7.With the above directions, the writ petition in W.P.No.26768 of 2025 is disposed of. In view of the order passed in W.P.No.26768 of 2025, the writ petition in W.P.No.12307 of 2025 stands dismissed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

31-07-2025

rst

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

To

1.Deputy Commissioner of Appeals (ST),
Department of Commercial Taxes,
Pitchards Road, Hasthampatti, Salem.

2.The Assistant Commissioner (ST),
Salem Town West Assessment Circle,
Department Of Commercial Taxes,
Pitchards Road, Hasthampatti, Salem.

KRISHNAN RAMASAMY J.

rst

WP No. 26768 of 2025
AND WMP NO. 13894 OF
2025,WMP NO. 30083 OF
2025,WMP NO. 30084 OF
2025,WP NO. 12307 OF 2025

31-07-2025