IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2025

CORAM
THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27173 of 2025

M/s.Madhan Textiles,
Rep. by its Proprietor
K.Devaraj,
Shop No.46, B.T.Market, Bargur,
Krishnagiri - 635 104. ... Petitioner

Vs.

1.The Deputy State Tax Officer,
Goods and Services Tax Department,
Krishnagiri II - Circle Krishnagiri - 635 115.

2.The Deputy Commissioner (ST) (GST) Appeal,
Integrated Commercial Tax Building Room No.23,
2nd Floor, No.17, Pitchards Road, Salem - 7. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to restore the first appeal application with condonation of delay petition for 57 days dated June 20, 2024 (Ref number ARN Ref No AD330624033015L) for the year 2018-19, against order reference ZD3312231597473 dated December 24, 2023, within the delay period of

57 days allowed by this Hon'ble Court, thereby upholding the principles of justice.

For Petitioner : Mr.Sivakumar.M

For Respondents : Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed seeking for a direction to the second respondent to restore the first appeal application with condonation of delay petition for 57 days dated June 20, 2024 (Ref number ARN Ref No AD330624033015L) for the year 2018-19, against order reference ZD3312231597473 dated December 24, 2023, within the delay period of 57 days allowed by this Hon'ble Court, thereby upholding the principles of justice.

3. The learned counsel for the Petitioner submitted that the first

respondent issued show cause notice and the same was uploaded in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same and hence failed to submit its reply. Since the petitioner failed to submit their reply to the show cause notice, the first respondent passed the assessment order dated 24.12.2023, against the petitioner, demanding the payment of tax along with penalty and interest for the Assessment Year 2018-2019 and the same was also uploaded in the GST portal without serving physical copy. Therefore, the petitioner was not aware of the assesement order. After coming to know about the assessment, the petitioner filed an appeal before the second respondent on 20.06.2024 with a delay of 57 days and the same was rejected by the second respondent on 19.08.2024 on the ground of limitation.

4.The learned counsel for the petitioner would submit that due to oversight by the petitioner's consultant, the petitioner could not able to file an appeal within time. Hence, he requested this Court to condone the delay and direct the second respondent to dispose of the appeal within the stipulated period.

5. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner has preferred an appeal beyond the period of limitation. Hence, the said appeal came to be rejected. Further, he would submit that this Court may condone the delay subject to terms.

6. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the statutory deposit at the time of filing the appeal and is ready and willing to deposit additional 10% of the disputed tax before the appellate authority, in the event if the delay is condoned and the appeal is taken on record.

7. Heard the learned counsel on either side and also perused the materials available on record.

8. In the present case, it is stated by the petitioner that due to the oversight by his consultant, the petitioner could not file an appeal within the time.

9. Considering the facts and circumstances of the case, this Court is of the view that the reason assigned by the petitioner for delay in filing the appeal appears to be genuine.

10. Though the prayer sought for by the writ petitioner is only for the mandamus to direct the second respondent to condone the delay in filing the appeal pertaining to the impugned order passed by the first respondent dated 24.12.2023, technically, the said relief sought for is erroneous, as the petitioner ought to have questioned the petition filed for condonation of delay. In the absence of such a petition, once again directing the authority to consider the question of delay would be nothing but prolonging the litigation and with a view to render substantial justice and in the interests of either party, this Court sitting under Article 226 of Constitution of India, is inclined to invoke its extraordinary power to set aside the order passed by the second respondent dated 19.08.2024 by condoning the delay of 57 days in filing the Appeal. Accordingly, this Court passes the following order:-

(i) The order passed by the second respondent dated 19.08.2024 rejecting the petition for condonation of delay is set aside and the delay of 57 days is condoned subject to payment of additional 10% of disputed tax demand before the second respondent as agreed by the petitioner, excluding the statutory deposit of 10% already made.

(ii)On such payment being made, the second 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.

With the above directions, this writ petition is disposed of. No costs.

25.07.2025

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

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<u>KRISHNAN RAMASAMY.J.,</u>

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