IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.07.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27353 of 2025
and
W.M.P.Nos.30698 & 30700 of 2025

Palanimalai Murugan Agency,
rep. by its Proprietor, P-Subramani,
No.32/1, Pottireddipatti, Namakkal-607 013.

...Petitioner

Vs.

1. The Deputy Commissioner (ST) (GST) Appeal
Salem & Erode,
Commercial Taxes Building,
Pitchards Road, Salem – 636 007.

2. The Assistant Commissioner (ST)
Namakkal (Rural) Circle
Commercial Taxes Building,
Employment Office Campus,
Mohanur, Namakkal – 637 001.

...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the first respondent passed in Form GST Apl-02 in reference No.ZD330425056274J dated 06.04.2025 and to quash the same as arbitrary.

For Petitioner : M/s.A.Divya
For Respondents : Ms.P.Selvi
Government Advocate (T)

Order

The challenge in this Writ Petition is to the order passed by the first respondent passed in Form GST Apl-02 dated 06.04.2025 and to quash the same.

2. M/s.A.Divya, learned counsel appearing for the petitioner would submit that challenging the order passed by the second respondent dated 08.07.2024, the petitioner preferred an Appeal before the first respondent, along with payment of 10% of the tax as pre-deposit for filing the Appeal, but the Appeal came to be rejected by the first respondent vide order dated 06.04.2025 on the ground of delay and challenging the same the present Writ Petition is filed.

2.1 The learned counsel for the petitioner would submit that the delay in filing the Appeal is only 12 days, and the same is neither wilful nor wanton, but owing to the fact that the petitioner's Consultant failed to follow up all the statutory compliances, and therefore, prays for setting aside the impugned order.

3. Ms.P.Selvi, learned Government Advocate (T) for respondents would submit that since the Appeal has been filed beyond the condonable period of limitation, the same came to be rejected by the first respondent vide the impugned order, and in the event, if this Court is inclined to set aside the same, subject to additional pre-deposit of 5% terms, the same may be done.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (T) for the respondents and perused the materials placed on record.

5. In the present case, it is seen that the adjudication order passed by the second respondent dated 08.07.2024 was not served on the petitioner but was only uploaded in the webportal, which was unnoticed by the petitioner, as the petitioner has engaged a Consultant to look after all the statutory compliances in relation to GST matters, and he failed to note the same, and only when the petitioner received a phone call from the office of the second respondent, the petitioner came to know of the adjudication order passed by the second respondent and immediately thereafter, the petitioner approached the Consultant, who in turn, took steps for filing the Appeal, however, in doing so, there happened to be a delay of 12 days.

6. Thus, this Court, in the light of the aforesaid facts of the case and in the interest of justice, is inclined to grant one more opportunity to the petitioner to putforth their case before the Appellate Authority by condoning the delay, as the reasons assigned by the petitioner for the delay appears to be genuine, however, subject to certain terms. Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The delay is condoned. Consequently, the impugned order passed by the first respondent/Appellate Authority dated 06.04.2025 is set aside, subject to the condition that the petitioner deposits 5% of the disputed tax in addition to the statutory deposit of 10% of the tax already paid by the petitioner at the time of filing Appeal within a period of two weeks from the date of receipt of a copy of this order.

ii) Thereafter, the first respondent/Appellate Authority, upon verification of the proof with regard to the payment of 5% of the disputed tax made by the petitioner, is directed to entertain the Appeal and dispose of the same in accordance with law.

iii) It is needless to state, the second respondent/Assessing Officer shall not precipitate the issue by initiating any recovery proceedings against the petitioner in furtherance of the adjudication order passed by him and the same shall be kept in abeyance till the issue is seized of by the Appellate Authority.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

11.07.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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