IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.27664 of 2025
& W.M.P.Nos.30995, 30996 & 30997 of 2025

M/s.Rajvijay and Co.,
A Partnership Firm, represented by
its Authorised Signatory Mr.Antony Danies V.,
S/o.Mr.Victor,
18, Imperial Road, Chellankuppam,
Cuddalore, Cuddalore District,
Tamil Nadu - 607 0003. ... Petitioner

Vs.

1.Deputy Commercial Tax Officer,
Deputy State Tax Officer-II, Cuddalore Town,
No.9, C.T.Building, Ground Floor,
Sub Jail Road, Manjakuppam,
Cuddalore, Cuddalore District, Tamil Nadu - 607 001.

2.Assistant Commissioner (State Tax), Cuddalore Town,
No.102, Bharathi Road,
Punjab National Bank (2nd floor),
Manjakuppam Cuddalore,
Cuddalore District, Tamil Nadu - 607 001.

3.Deputy Commissioner (Commercial Taxes)
Appellate Authority,
Commercial Taxes Building, Bharatiyar Salai,
Fort Round, Vellore, Tamil Nadu - 632 001.

4.Indian Overseas Bank,
Rep. by its Branch Manager,
87A/46, East Coast Road, Pudupalayam, Cuddalore,
Cuddalore District, Tamil Nadu - 607 001. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to the impugned order bearing GSTIN: 33AATFR2173C1Z9/2017-18 dated 05.12.2023 and the summary of order in Form GST DRC-07 bearing Reference No.ZD33122302408U dated 05.12.2023, the impugned Appeal Order passed by the third respondent bearing Reference No.ZD330225251203Z dated 25.02.2025, and the consequential recovery proceedings of the second respondent (i) vide Form GST DRC-13 dated 21.05.2025 for attachment of bank accounts under Section 79(1)(c) of TNGST Act, 2017, (ii) vide Form GST DRC-01D dated 25.06.2025 against the partners of the petitioner Firm, and all consequential actions connected thereto, and quash the same as illegal, arbitrary and unconstitutional and to direct the fourth respondent Bank to remove the lien and de-freeze the bank accounts belonging to the petitioner, the partners of the petitioner firm and affiliate entities of the partners of the petitioner firm.

For Petitioner : Mr.Santhosh Sagar Kapilavai

For Respondents 1 to 3 : Mrs.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the assessment order dated 05.12.2023 and the appeal rejection order dated 25.02.2025 passed by the respondents 1 & 3.

2. Mrs.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents 1 to 3. 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 would submit that in this case, the first respondent issued a show cause notice on 27.09.2023, for which the petitioner filed their reply on 30.11.2023. However, without considering the said reply, the first respondent passed the impugned assessment order on 05.12.2023. Due to the ill health of the petitioner, he has failed to file their appeal within time. Thereafter, the appeal

against the aforesaid assessment order was preferred by the petitioner with a delay of 74 days. Since the said delay is beyond the condonable period, the appeal was rejected by the third respondent, vide rejection order dated 25.02.2025, on the aspect of limitation. Hence, he prayed to condone the delay in filing the appeal on any terms including any condition of additional pre-deposit.

4. On the other hand, the learned Government Advocate appearing for the respondents 1 to 3 would submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 3 and also perused the materials available on record.

6. In the case on hand, the assessment order came to be passed on 05.12.2023. Aggrieved over the same, an appeal was belatedly preferred

by the petitioner on 24.05.2024 i.e., with a delay of 74 days. Since the delay was beyond the condonnable period, the said appeal was rejected by the third respondent vide impugned order dated 25.02.2025. According to the petitioner, since he was diagnosed with liver disease, he was unable to file the appeal within time.

7. The above reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. In such view of the matter, this Court is inclined to condone the delay, in filing the appeal against the impugned assessment order, on terms.

8. Therefore, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the delay of 34 days, this Court directs the petitioner to pay additional 10% of the disputed tax amount, as agreed by the petitioner, to the respondents. Accordingly, this Court passes the following order:

> i) The impugned order dated 25.02.2025 is set aside and the delay of 74 days in filing the appeal against the assessment order is hereby condoned, subject to the

payment of additional 10% of the disputed tax amount by the petitioner to the respondent-Department within a period of two weeks from the date of receipt of a copy of this order.

ii) Upon payment of the said amount, the 3rd respondent/Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

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

29.07.2025

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

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KRISHNAN RAMASAMY.J.,
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