IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-08-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 28082 of 2025
AND
WMP NO. 31498 OF 2025,WMP NO. 31500 OF 2025

Kannan Suresh,
Proprietor of Vijay Steels
No.32 / 304 T. H. Road,
New Washermenpet,
Chennai 600 081.

Petitioner(s)

Vs

1. The Assistant Commissioner (ST),
Tondiarpet Assessment Circle,
Integrated Commercial Tax Offices Building,
Chennai North Division,
No. 32 Elephant Gate Rod,
Chennai 600 003.

2.The Deputy Commissioner (CT)
GST Appeals, Chennai I,
Main Building, PAPJM Building
(Main Building), Greams Road,
Chennai 600 006.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the first respondent in GSTIN33BGEPS1574A1ZQ/2019-20 dated 19.10.2023, the order under section 74 dated 19.10.2023 and the summary of the order in Form GST DRC-07 dated 19.10.2023 issued in Reference No ZD331023123827P and the consequential impugned orders dated 17.10.2024 passed by the second respondent in Form GST APL-02 and to quash the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act,2017 and against the principles of natural justice.

For Petitioner(s):	Mr.Benuel Ritesh Rajkumar
For Respondent(s):	Mr.T.N.C.Kaushik Addl. Govt. Pleader (taxes)

ORDER

This writ petition has been filed challenging the impugned assessment order dated 19.10.2023, passed by the 1st respondent and the consequential impugned appeal rejection order dated 17.10.2024, passed by the 2nd respondent.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that the petitioner was issued with show cause notice dated 07.09.2023, pertaining to the Financial year 2019-2020. Since the said show cause notice was uploaded in the GST Portal and no physical initmation was made to the petitioner, the petitioner had no ocassion to open the GST Portal and they were unaware of the proceedings initiated against them. Therefore, the petitioner could not file their reply/objection to the show cause notice dated 07.09.2023 and consequently, an *ex parte* assessment order dated 19.10.2023 came to be passed, which was also uploaded in the GST portal.

5.He would further submit that the petitioner came to know about the impugned assessment order dated 19.10.2023 only when the 1st respondent called the petitioner over phone and informed about the alleged arrears of tax, interest and penalty. Thereafter, immediately the petitioner preferred an appeal before the 2nd responden. However, the appeal got rejected on the ground of limitation since there was a delay of 149 days. Further, he would also submit that the respondents' Department has recovered 50% of the disputed tax demand from the petitioner's electronic cash ledger and he prayed to condone the delay and provide an opportunity to the petitioner to putforth their case by way of appeal.

6.Learned Additional Government Pleader 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 and appropriate orders may be passed to take the appeals on record subject to the verification of recovery of 50% disputed tax demand.

7.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

8.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader apeparing for the respondents, it is evident that the show cause notice was only uploaded in the GST portal and the physical copy of the said show cause notice was not furnished to the petitioner. Therefore, the petitioner was not aware of the issuance of show cause notice and the impugned order and therefore, the delay has occurred in filing the appeal. Thus, this Court is of the view that since the respondent had already recovered 50% of the disputed tax demand from the petitioner and the reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine, this Court is inclined to condone the delay. Accordingly, this Court passes the following orders:-

(i) The delay of 149 days in filing the appeal against the assessment order dated 19.10.2023 is hereby condoned.

(ii) The Appellate Authority is directed to take the appeals on record without insisting upon the limitation aspect and pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9.With the above directions, this writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01-08-2025

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

Note: Issue Order Copy on 05.08.2025.

To

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KRISHNAN RAMASAMY J.

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