IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.28053 of 2025
and
W.M.P.Nos.31446 and 31447 of 2025

Tvl Crescent Cashew Exports,
Represented by its Proprietor Mr Bradep Raj,
No.113A, West Main Road,
Visur Post, Panruti Taluk,
Cuddalore, Tamilnadu- 607 805
GSTIN 33BMQPB4784H1ZU

...Petitioner

Vs.

1. The Deputy Commissioner (Appeal)
Vellore GST
No.4 Bharathiyar Salai,
Fort Round Road,
Vellore -632 001.

2. The State Tax Officer (Intelligence) Inspection-2,
Office of Commercial Tax officer,
Cuddalore Division,
Cuddalore,
Tamilnadu.

3. The Deputy Commissioner (CT)
Vellore, Tamilnadu.

...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 the records of the 2nd respondent herein in its impugned order in GSTIN 33BMQPB4784H1ZU /2023-2024 dated 04.07.2024 along with summary order in Form DRC -07 vide Ref No.ZD3307240624400 dated 04.07.2024, along with the consequential proceedings of the 1st respondent in Form GST-Apl- 02, bearing ref No. ZD3304252121406, dated 29.04.2025, for the tax period 2023-24, and quash the same.

For Petitioner : Ms..Hemalatha

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

<u>Order</u>

Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), 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. The challenge in this Writ Petition is to the order dated 04.07.2024 passed by the second respondent for the AY 2023-24 along with consequential order passed by the 1st respondent dated 29.04.2025 and to quash the same.

3. The learned counsel for the Petitioner submitted that the 1st respondent issued show cause notice dated 30.12.2023, followed by reminder notices dated 20.01.2024 and 22.02.2024 to the petitioner, for which the petitioner submitted its reply on 20.03.2024. But the 2nd respondent without considering the same has passed the assessment order dated 04.07.2024, against the petitioner demanding the payment of tax along with penalty and interest for the Assessment Year 2023-2024. Thereafter,the petitioner filed an appeal before the 1st respondent on 22.11.2024 with a delay of 46 days and the same was rejected by the 1st respondent on the ground of delay.

4.The learned counsel for the petitioner would submit that due to ill health, the petitioner could not be file appeal within time. Hence, he requested this Court to condone the delay and direct the 1st respondent to dispose of the appeal within the stipulated period.

5. The learned Government Advocate (Taxes) appearing for the

respondents would submit that since the 1st respondent has no power to condone the delay beyond the period of limitation, the appeal filed by the petitioner 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 5% 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 both sides and also perused the materials available on record.

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

9. Considering the facts and circumstances of the case, this Court is of

the view that the reasons assigned by the petitioner for delay in filing the appeal appears to be genuine. Therefore, this Court is inclined to set aside the impugned order passed by the 1st respondent dated 29.04.2025 and condone the delay of 46 days in filing the Appeal before the 1st respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 29.04.2025 passed by the 1st respondent is set aside and the delay of 46 days in filing the appeal before the 1st respondent is condoned subject to payment of additional deposit of 5% of disputed tax, as agreed by the petitioner, over the above the statutory deposit of 10% already made by the petitioner before the 1st respondent, within a period of two weeks from the date of receipt of a copy of this order.
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> (ii) On such payment being made, the 1st 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.

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

30.07.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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