IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 28207 of 2025
AND
WP NO. 28211 OF 2025,WMP NO. 31630 OF 2025,WMP NO. 31632 OF 2025,WMP NO. 31638 OF 2025,WMP NO. 31640 OF 2025

Tvl.Srishaila GDCL JV,
Represented By Its Lead Partner,
Mr.Pokala Rajendra,
C1,Ocean Woods, 429 East Coast Road,
Kannathur, Chennai,Tamil Nadu 603 112.

Petitioner in both W.Ps

Vs

1.The Deputy Commissioner (CT),
GST Appeal-II, Greams Road,
Chennai, Tamilnadu 600 006.

2.The State Tax Officer,
(also Known As Commercial Tax Officer),
Kelambakkam Assessment Circle,
Room No.119, 1st Floor,
No.46, Greenways Road,
Raja Annamalaipuram, Chennai.600028

Respondents in both W.Ps

PRAYER in WP No. 28207 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records on the files of the 1st Respondent herein in GSTIN/Temp ID/UIN 33AANAS8190H1Z1 against ARN AD3307250146942 dated 11.07.2025 and quash the same.

PRAYER in WP No. 28211 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records on the files of the 2nd Respondent herein in GSTIN.33AANAS8190H1Z1/2019-20 dated 16.08.2024, order under Section 73 of the TNGST Act, 2017 and the summary of the order in Form GST DRC-07 both dated 16.08.2024 issued in Reference No.ZD330824128006N and quash the same.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondent : Mr.C.Harsha Raj
Special Government Pleader

COMMON ORDER

W.P.No.28207 of 2025 has been filed by the petitioner challenging the impugned appeal rejection order dated 11.07.2025 passed by the 1st respondent, relating to the Tax Period 2019-20.

W.P.No.28211 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 16.08.2024 passed by the 2nd respondent, relating to the Tax Period 2019-20.

2.Learned counsel appearing for the petitioner would submit that the petitioner was issued with the show cause notice dated 22.05.2024, pertaining to the Tax 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 22.05.2024 and consequently, an *ex parte* assessment order dated 16.08.2024 came to be passed, which was also uploaded in the GST portal.

3.He would further submit that the petitioner preferred an appeal before the 1st respondent, by depositing 10% of the disputed tax demand in respect of the assessment period. However, the same was rejected on the ground of limitation since there was a delay of 234 days in filing the appeal. Therefore, the learned counsel for the petitioner, prayed to condone the delay on any terms including any condition of additional pre-deposit and provide an opportunity to the petitioner to putforth their case by way of appeal.

4.Learned Special 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 with any terms and appropriate orders may be passed to take the appeals on record.

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

6.Considering the submissions made by the learned counsel for the petitioner as well as the learned Special Government Pleader appearing 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, they were 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 the reason assigned by the petitioner for the delay in filing the appeal against the assessment order, appears to be genuine. For filing the appeal, the writ petitioner had already paid 10% of statutory pre-deposit. Since there occurred a delay, this Court is inclined to direct the petitioner to pay another 5% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following orders:-

(i) The delay of 234 days in filing the appeal against the assessment order dated 16.08.2024 is hereby condoned.

(ii)The Appellate Authority is directed to take the appeals on record without insisting upon the limitation aspect, subject to the payment of 5% of the disputed tax demand, in addition to 10% statutory pre-deposit, i.e totally 15% of the disputed tax amount in respect of the impugned assessment period and pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

7.With the above directions, the writ petition in W.P.No.28207 of 2025 is disposed of. In view of the order passed in W.P.No.28207 of 2025, the writ petition in W.P.No.28211 of 2025 stands closed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

06-08-2025
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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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KRISHNAN RAMASAMY J.

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W.P.Nos.28207 & 28211 of 2025

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