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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28743 of 2025
& W.M.P.Nos.32190 & 32192 of 2025

M/s.Nelson Travels,
Rep. by its Proprietor,
No.16, Redhills Road, Ambattur,
Chennai - 600 053. ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeal,
Chennai-II, PAPJM Building,
Greams Road, 2nd Floor, Chennai - 06.04.2024

2.Assistant Commissioner (ST),
Ambattur Assessment Circle,
Integrated Commercial Taxes and Registration Department,
Nandanam, Chennai - 35. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of Impugned Assessment Order dated 26.06.2023 issued by the second respondent in

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GSTIN.No.33ACOPN8272H1Z7/2018-19 and its culminating Impugned Appeal Order dated 26.04.2025 bearing ZD3304251987516 passed by the first respondent and quash the same.

For Petitioner : Mr.A.Abdul Rahman

For Respondents : Mrs.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned assessment order dated 26.06.2023 and the impugned appeal rejection order dated 26.04.2025 passed by the respondents 1 & 2.

2. Mrs.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents. 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 *ex parte* assessment order came to be passed by the 2nd respondent on 26.06.2023. Since the notices/communications were uploaded under the "View Additional Notices and Orders" tabs in the

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GST portal, the petitioner was not able to file their appeal within time. Thereafter, the appeal against the aforesaid assessment order was preferred by the petitioner with a delay of 45 days. Since the said delay is beyond the condonable period, the appeal was rejected by the first respondent, vide impugned rejection order dated 26.04.2025, 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 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 and also perused the materials available on record.

6. In the case on hand, the *ex parte* assessment order came to be passed by the second respondent on 26.06.2023. Aggrieved over the

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same, an appeal was belatedly preferred by the petitioner on 06.11.2023, i.e., with a delay of 45 days. Since the delay was beyond the condonable period, the said appeal was rejected by the first respondent vide impugned order dated 26.04.2025. According to the petitioner, since, the notices/communications were uploaded under the "View Additional Notices and Orders" tabs in the GST portal, they remained unaware of the said order and hence, they were 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 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 45 days, this Court directs the petitioner to pay additional 5% of the disputed tax amount, as agreed by the petitioner, to the respondents. Accordingly, this Court passes the following order:

i) The impugned rejection order dated 26.04.2025 is

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set aside and the delay of 48 days in filing the appeal against the assessment order is hereby condoned, subject to the payment of additional 5% of the disputed tax amount by the petitioner to the respondents-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 1st 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.

05.08.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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KRISHNAN RAMASAMY.J.,
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To

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