IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29308 of 2025
& W.M.P.Nos.32851 & 32856 of 2025

Tvl.J.K.Auto Agency,
Rep. by its Proprietor,
Tmt. Indira,
No.195/92, Opp Chinna Muthu
Mariamman Koil Street,
GST Road, Chengalpattu. ... Petitioner

Vs.

1.State Tax Officer,
Chengalpattu Assessment Circle,
No.16/A, 1st Floor, 1st Main Road,
Anna Nagar,
Chengalpattu - 603 001.

2.Deputy Commissioner (CT),
GST Appeal, Chennai-II,
CT Main Building,
2nd Floor, Greams Road,
Chennai - 600 006. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the impugned order on the file of the first respondent in DRC-07 Ref.No.ZD3308242432796 dated 27.08.2024 passed under Section 73 of the Tamil Nadu Goods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 herein after referred to as GST Act, 2017 and appeal rejection order in APL-02 in reference ZD330525252681G dated 23.05.2025 passed by the second respondent and quash the same.

For Petitioner	:	Ms.T.Yazhlini for Mr.Syed Abdul Wakeel.B
For Respondents	:	Ms.P.Selvi, Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned assessment order dated 27.08.2024 and the consequential appeal rejection order dated 23.05.2025 passed by the respondents.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, this 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, all notices/communications were uploaded by the first respondent in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the assessment order dated 27.08.2024 came to be passed by the first respondent without providing any opportunity of personal hearing to the petitioner. Being unaware of the said assessment order, the petitioner 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 152 days. Hence, the second respondent rejected the same vide rejection order dated 23.05.2025 on the ground of limitation.

4. Further, she would submit that the petitioner has already deposited 10% of the disputed tax amount to the respondents and now, the petitioner is willing to pay 15% of the disputed tax amount. Hence, she submitted that since the assessment order is also under challenge before this Court, she requested this Court to condone the delay in filing

the Appeal and direct the Appellate Authority to consider and pass appropriate orders.

5. 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. However, she fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned assessment order. Hence, she requests this Court to dismiss this writ petition.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and also perused the materials available on record.

7. In the case on hand, the assessment order came to be passed by the first respondent on 27.08.2024. Aggrieved over the same, an appeal was preferred by the petitioner on 27.04.20255, i.e., with a delay of 152 days. Since the same was filed beyond the period of limitation, the

second respondent rejected the said appeal vide impugned rejection order dated 23.05.2025. According to the petitioner, since he was not aware of the said assessment order, he could not file the appeal within the original limitation period.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% of disputed tax amount at the time of filing the appeal and now, he is willing to pay additional 15% of the disputed tax amount to the respondents. In such view of the matter, in order to avoid unnecessary further litigations, this Court feels it appropriate to set aside the impugned assessment order dated 27.08.2024, instead of condoning the delay in filing the appeal and directing the second respondent/appellate authority to take appeal on record. Accordingly, this Court passes the following order:-

> i) The impugned assessment order dated 27.08.2024 is set aside and the matter is remanded to the respondents for fresh consideration, subject to the payment of additional 15% of the disputed tax to the respondents as agreed by the petitioner, within a period of four weeks

from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

07.08.2025

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

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