IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29587 of 2025
and
W.M.P.Nos.33139 and 33140 of 2025

Tvl SRI GUHAN PROMOTERS,
Rep by its Partner BALASUBRAMANIAM,
C/o.Kulandaisamy,
No. 17, VNM Building,
Vilankurichi Road,
Saravanampatti,
Coimbatore - 641 035.

...Petitioner

Vs.

1. The Appellate Deputy Commissioner (ST),
Goods And Service Tax,
Commercial Tax Building,
Dr.Balasudnaram Road,
Coimbatore-641 018.

2.The Deputy Commercial Tax Officer,
Commercial Taxes Building,
Dr Balasundaram Chettiar Road,
Zone III, Saravanampatti East,

Coimbatore 641019

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records and quash the order of assessment order in DRC-07 bearing Ref No.ZD330225150738E in GSTIN/ID: 33ADQFS9775B1ZL/ 2020-21 dated 16.02.2025 passed by the Second respondent and consequently direct the first respondent to condone 3 days delay in filing the appeal beyond the statutory period.

For Petitioner : Mr.P.Ulaganathan

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

<u>Order</u>

Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 16.02.2025 passed by the 2nd respondent and consequently direct the first respondent to condone 3 days delay in filing the appeal beyond the statutory period.

3. The learned counsel for the Petitioner submitted that the 2nd respondent issued show cause notice dated 25.11.2024, followed by reminder notices dated 27.12.2024, 13.01.2025 and 25.01.2025 to the petitioner, by uploading the same in the GST portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of the same and hence failed to submit its reply. Since the petitioner failed to submit its reply to the show cause notice, the 2nd respondent passed the impugned assessment order against the petitioner confirming the proposals made in the show cuase notice and the same was also uploaded in the GST portal. The petitioner came to know of the assessement order belatedly. Subsequently, when the petitioner attempted to file appeal with delay of 33 days in the Portal, the same was not accepted by the Portal with the following warning message.

> *"Time limit for filing of Form of Appeal to file Appellate Authority has expired. Also time limit of further period of 1(one) month for filing the reason for delay has expired. Appeal to First Appellate Authority*

> *cannot be made. If you still wish to continue, please file application for appeal with relevant documents."*

4.The learned counsel for the petitioner would submit that since the assessment order was uploaded in the GST portal without serving physical copy of the same to the petitioner, the petitioner was unaware of the same which resulted in delay in filing the Appeal. Though impugned assessement order is under challenge in this writ petition, the learned counsel for the petitioner would submit that they may be permitted to file an appeal before the 1st respondent with relevant documents and on such appeal being filed the 1st respondent may be directed to take the appeal on record by condoning the delay of 33 days and thereafter to dispose of the appeal filed by the petitioner.

5. The learned Additional Government Pleader (Taxes) appearing for the respondents would submit that the request of the petitioner may be considered 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 attempting to file 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 since all the proceedings were uploaded in the GST portal, without serving physical copy to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the assessement order belatedly, which resulted in delay in filing the appeal.

9. Considering the facts and circumstances of the case and also the submissions made, 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 passes the following order:-

(i) The petitioner is permitted to file appeal before the 1st respondent subject to 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.

(ii) On such payment being made, the 1st respondent is directed to take the appeal on record by condoning the delay 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.

07.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

1. The Appellate Deputy Commissioner (ST),
   Goods And Service Tax,
   Commercial Tax Building,
   Dr.Balasudnaram Road,
   Coimbatore-641 018.

2. The Deputy Commercial Tax Officer,
   Commercial Taxes Building,
   Dr.Balasundaram Building,
   Dr.Balasudnaram Chettiar Road,
   Zone-III, Saravanampatti (East),
   Coimbatore-641 019.

Krishnan Ramasamy,J.,

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W.P.No.29587 of 2025

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