IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.31110 & 31097 of 2025
& W.M.P.Nos.34872, 34875, 34876, 34860, 34862 & 34866 of 2025

Tvl.Athithiya Retreads,
Rep. by Thammankalipalayam Subramaniam Rameshkumar,
2/431, Salem Road,
Pappinaikanpatti,
Mudalipatti (PO),
Namakkal,
Tamil Nadu - 637 003.
GSTID: 33AENPR1642A1ZU ... Petitioner in both W.Ps.,

Vs.

1.The State Tax Officer,
Namakkal (Rural) Assessment Circle,
Namakkal,
Salem.

2.The Deputy Commissioner (CT),
GST Appeal,
Namakkal,
Tamil Nadu.

3.The Assistant Commissioner (ST)
No.67/7, II-Floor,
Integrated Commercial Tax Building,
Mohanur Road,
Namakkal - 637 001. ... Respondents in both W.Ps.,

Prayer in W.P.No.31110 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the files of the second respondent pertaining to records on the files of the second respondent pertaining to ARN#AD330425031268A Order dated 16.04.2025, quash the same as illegal and consequently direct the second respondent to consider the matter afresh after providing opportunity of hearing and dispose the case on merits.

Prayer in W.P.No.31097 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the files of the second respondent pertaining to records on the files of the first respondent pertaining to GSTID: 33AENPR1642A1ZU/2019-20 Order dated 30.08.2024, quash the same as illegal and consequently direct the FIRST respondent to consider the matter afresh after providing opportunity of hearing and dispose the case on merits.

For Petitioner in both W.Ps.,	:	Mr.S.Rajesh
For Respondents in both W.Ps.,	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate (T)

<u>COMMON ORDER</u>

These writ petitions have been filed challenging the assessment order dated 30.08.2024 and the appeal rejection order dated 16.04.2025 passed by the respondents 1 & 2.

2. Ms.Amirta Poonkodi Dinakaran, learned Special Government Pleader, takes notice on behalf of the respondents in both writ petitions. By consent of the parties, these two main writ petitions are taken up for hearing at the admission stage itself.

3. The learned counsel for the petitioner would submit that in these cases, a show cause dated 22.05.2024 was issued to the petitioner. Thereby, the petitioner filed their detailed reply on 08.07.2024. However, without considering the same, the first respondent passed the impugned assessment order dated 30.08.2024, without providing any opportunity of personal hearing to the petitioner, against which, rectification application was filed on two occasions and the same was also rejected by the respondents. Thereafter, the appeal against the aforesaid assessment order was preferred by the petitioner with a delay of 99 days. Since the delay was beyond the condonable period, the second

respondent rejected the same vide impugned rejection order dated 16.04.2025, on the ground of limitation. Hence, he prayed to condone the delay in filing the appeal on any terms including any condition of additional pre-deposit and he has also made an endorsement to that effect in the case bundle.

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 assessment order came to be passed by the first respondent on 30.08.2024. Aggrieved over the same, an appeal was preferred by the petitioner on 09.04.2025, i.e., with a delay of 99 days. Since the delay was beyond the condonable period, the said appeal

was rejected by the second respondent vide impugned order dated 16.04.2025, on the ground of limitation. According to the petitioner, since they have filed a rectification application on two occasions, they are not in a position 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 99 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 16.04.2025 is set aside and the delay of 99 days in filing the appeal before the Appellate Authority is condoned, subject to the payment of additional 5% of the disputed tax to the respondents as agreed by the petitioner, within a period of

two 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) Upon such payment made by the petitioner, the first 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, W.P.No.31110 of 2025 is disposed of. As far as W.P.No.31097 of 2025 is concerned, the writ petition stands closed. No costs. Consequently, the connected miscellaneous petitions are closed.

22.08.2025

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