IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.08.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.31984 of 2025
and
W.M.P.Nos of 2025 check

Tvl. Kamala Apparels
rep. by its Proprietor, Mrs. Chetna ...Petitioner

Vs.

1. The Deputy Commissioner (ST)
   GST Appeals, Chennai -I,
   Greams Road, Chennai – 600 006.

2. The Assistant Commissioner (ST) (FAC)
   Royapuram Assessment Circle,
   No.32, Elephant Gate Bridge Road,
   Vepery, Chennai – 600 006. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the second respondent, in order dated 21.02.2025 in GSTN : 33AMFPC0362E1ZT/2020-21 bearing Ref.No.ZD330225224519J and the consequential rejection of Appeal order dated 28.07.2025 in Form GST -APL-02 in Ref.No.ZD330725316395C passed by the first respondent and to quash the same.

For Petitioner : M/s.C.Rekha Kumari

For Respondents : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard M/s.C.Rekha Kumari learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who 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 passed by the second respondent dated 21.02.2025 and the consequential rejection of Appeal order dated 28.07.2025 in Form GST -APL-02 passed by the first respondent and to quash the same.

3. The learned counsel for the petitioner would submit that aggrieved by the assessment order passed by the second respondent/Assessing Officer dated 21.02.2025, the petitioner preferred an Appeal before the first respondent, however, the same came to be rejected by virtue of the impugned order dated 28.07.2025 on the ground of delay; that aggrieved by the said rejection order of Appeal, the petitioner has filed this Writ Petition.

3.1 The learned counsel would submit that the reason for the delay in filing the Appeal is neither wilful nor wanton but due to the fact that the assessment order passed by the second respondent was an ex parte order, as, no personal hearing opportunity was provided to the petitioner, and the moment, the petitioner came to know of the assessment order, the petitioner handed over the papers to the Consultant, named Purushothaman,however, the said Consultant passed away on 24.05.2025, but the petitioner was under the impression that Appeal would have been filed by the said Consultant, only when the petitioner's bank account came to be attached, the petitioner came to know about the fact of non-filing of Appeal due to Accountant's demise, and immediately thereafter, the petitioner took steps to file Appeal, and in doing so, there happened to be a delay of 31 days. Therefore, the learned counsel prays for setting aside the impugned orders on any terms.

4. The learned Government Advocate (T) for the respondents submitted that as the petitioner failed to file Appeal within the prescribed period of limitation, the Appeal was not entertained by the Appellate

Authority and came to be rejected at the threshold, however, in the event, this Court is inclined to condone the delay, subject to certain terms, the delay may be condoned.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that aggrieved by the assessment order passed by the second respondent/Assessing Officer dated 21.02.2025, the petitioner preferred an Appeal before the Appellate Authority/ first respondent, however, in preferring such Appeal, there happened to be a delay of 61 days. According to the learned counsel for the petitioner the reason for the delay is that the petitioner handed over the papers to the Consultant, named Purushothaman to file Appeal against the assessment order, however, the said Consultant passed away on 24.05.2025, but the petitioner was under the bona fide impression that Appeal would have been filed by the said Consultant, only when the petitioner's bank account came to be attached, the petitioner came to know about the fact of non-filing of Appeal due to Accountant's demise, and immediately thereafter, the petitioner took steps to file Appeal, and in doing so, there happened to be a delay of 31 days. However, the first respondent without properly appreciating the reasons assigned by the petitioner for condonation of delay, dismissed the Appeal.

6.1 Thus, this Court, in the light of the aforesaid facts of the case and in the interest of justice, is inclined to grant one more opportunity to the petitioner to putforth their case before the Appellate Authority by condoning the delay, as the reasons assigned by the petitioner for the delay appears to be genuine. Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The impugned assessment order passed by the second respondent dated 21.02.2025 and the order of rejection of the Appeal passed by the first respondent dated 28.07.2025 are set aside, however, the same is subject to the condition that the petitioner deposits 5% of the disputed tax apart from the mandatory pre-deposit of 10% of the disputed tax made by the petitioner at the time of filing Appeal within a period of two weeks from the date of receipt of a copy of this order.

ii) As and when such payment of 5% is made, the first respondent/Appellate Authority, upon verification of the proof produced by the petitioner with regard to the said payment is directed to entertain the Appeal and dispose of the same in accordance with law.

and

iii) It is needless to state, the second respondent/Assessing Officer shall not precipitate the issue by initiating any recovery proceedings against the petitioner and the same shall be kept in abeyance till the issue is seized of by the Appellate Authority.

7. In the result, the Writ Petition is disposed of on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2025

sd

Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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