IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No. 31280 of 2025
and
W.M.P.No. 35009 of 2025

Veeraswamy Elango ... Petitioner

Vs.

1.The Deputy Commissioner,
DC GST Appeal,
2nd Floor, Main Building,
Greams Road, Chennai – 600 006.

2.The Assistant Commissioner (Circle),
Koyambedu Assessment Circle,
Kilpauk Zone,
CMDA Administration Building,
2nd Floor, Koyambedu,
Chennai – 600 107. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in assessment orders issued by the 2nd respondent in GSTIN 33AAAPE1135G1ZK, the reference no. ZA331219000755R passed on 12.12.2019 and the consequential rejection of Appeal Order dated 05.05.2025 in FORM GST APL-02 bearing reference no.ZD330525021451W passed by the 1st respondent and quash the same as illegal, arbitrary and in violation of principles of natural justice.

For Petitioner : Mr.Prabhakaran R.

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

ORDER

This writ petition has been filed challenging the order dated 05.05.2025 passed by the 1st respondent rejecting the appeal filed by the petitioner on the ground that the petitioner filed the appeal with delay.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Tax), 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 appearing for the petitioner would submit

that the 1st respondent rejected the appeal stating that the appeal was filed with delay. By citing Notification No.53/2023 dated 02.11.2023, he would submit that the appeal was filed on 29.01.2024. Though the assessment order passed prior to that date, even if it is time barred, he is entitled to avail the benefit available under the said notification. The present case was filed on 29.01.2024 therefore, without taking into consideration of this notification, the appeal was rejected as if it was filed with delay.

4. However, the learned counsel appearing for the respondent would submit that in the present case, no doubt, the benefit available under the Notification No.53 of 2023 will be made available to the petitioner provided, he is supposed to have paid 12.5% of the disputed tax in terms of the Clause 3(b) of the Notification. Since the petitioner remitted only 10% of the disputed tax, the appeal was rejected on the aspect of delay.

5. The learned counsel for the petitioner would submit that the petitioner has already paid 10% of the disputed tax and further, submit

that the appeal was filed in time i.e., on 29.01.2024.

6. Considering the submissions made by the learned counsel appearing for the petitioner as well as the respondents, I do not find any fault in the decision making process while rejecting the appeal on the aspect of delay. If the petitioner has deposited 12.5% of the disputed tax as per the notification, the respondent would have considered. Since the petitioner remitted only 10% of the disputed tax, the appeal was rejected as the said appeal filed by the petitioner is not in accordance with the Notification No.53 of 2023.

7. Now the petitioner would submit that inadvertently, they have calculated 10% instead of 12.5% but, the appeal filed on 29.01.2024, which is within the time limit as provided in Notification No.53 of 2023. Now he is ready to pay 10% of the disputed tax additionally over and above the 10% disputed tax already paid and requested the Court to permit the petitioner to avail the appeal remedy.

8. The learned counsel appearing for the respondent would submit

that if this Court thinks fit, on payment of additional 10% of the disputed tax, the delay may be condoned.

9. In view of the submissions made by the respective parties and in the interest of justice, this Court is inclined to condone the delay. Accordingly, this Court passes the following order:-

(i) Accordingly, the order dated 05.05.2025 passed by the 1st respondent is set aside and the delay in filing the appeal is condoned.

(ii) The 1st respondent is directed to take the appeal on record, on condition, the petitioner shall pay 10% of the disputed tax additionally, over and above the 10% of the disputed tax already paid within a period of two weeks from the date of receipt of a copy of this order.

(iii) Upon receipt of the payment of 10% of the disputed tax, the 1st respondent 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.

10. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petition is also closed.

20.08.2025

kkn

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

To

1.The Deputy Commissioner,
DC GST Appeal,
2nd Floor, Main Building,
Greams Road, Chennai – 600 006.

2.The Assistant Commissioner (Circle),
Koyambedu Assessment Circle,
Kilpauk Zone,
CMDA Administration Building,
2nd Floor, Koyambedu,

Chennai – 600 107.

KRISHNAN RAMASAMY., J.

KKN

W.P.No. 31280 of 2025

20.08.2025