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

W.P.No.31985 of 2025
and
W.M.P.Nos.35827 & 35830 of 2025

Manisekar Jayalakshmi
Partner of Tvl. Jayalakshmi Power Systems
10B, Srinivasa Street, Gnanamoorthy Nagar
Ambattur Chennai Tamil Nadu-600 053. Petitioner

Vs

1 THE DEPUTY COMMERCIAL TAX OFFICER/
DEPUTY STATE TAX OFFICER-II,
AMBATTUR ASSESSMENT CIRCLE,
AMBATTUR KANCHEEPURAM :
TAMILNADU STATION NO.323, 3RD FLOOR
INTEGRATED COMMERCIAL TAX BUILDING
Nandanam, Chennai – 600 035.

2 The Deputy Commissioner CT
Office of the GST Appeal II PAPJM Building,
2nd Floor Greams Road 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 from the file of the first respondent in respect of the Impugned Order under section

73 of the Tamil Nadu Goods and Service Tax Act 2017/Central Goods and Service Tax Act 2017 including the Summary of the Order in Form GST DRC-07 both dated 18.02.2025 and having Reference Number ZD330225176392I and its annexure dated 18.02.2025 in GSTIN 33AQZPJ4688C2ZC/2020-2021 passed by the First Respondent for FY 2020-21 along with the acknowledgment in Form GST APL-02 dated 25.07.2025 having Reference Number ZD330725286953V issued by the Second Respondent under Rule 108 of Central Goods and Services Tax Rules 2017/ Tamil Nadu Goods and Services Tax Rules 2017 for the FY 2020-21 and quash the same.

For Petitioner : Ms.S.Abirami
for Mr.N.V.Balaji

For Respondents : Mr.C.Harsha Raj
Special Government Pleader

Order

Heard Ms.S.Abirami, learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader, 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 first respondent under section 73 of the Tamil Nadu Goods and Service Tax Act 2017/Central Goods and Service Tax Act 2017 including the Summary of the Order in Form GST DRC-07 both dated 18.02.2025 and its annexure dated 18.02.2025 along with the acknowledgment in Form GST APL-02 dated 25.07.2025 issued by the second respondent and to quash the same.

3. The learned counsel for the petitioner would submit that aggrieved by the assessment order passed by the first respondent/Assessing Officer dated 18.02.2025 the petitioner preferred an Appeal before the second respondent, however, the same came to be rejected by virtue of the impugned order dated 25.07.2025 on the ground of delay; that challenging both the assessment order passed by the first respondent and rejection order of Appeal passed by the second respondent, 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 first respondent was an ex parte order, as, no personal hearing opportunity was provided to the petitioner, and that there was no communication of the order dated 18.02.2025 until June 2025, when the petitioner accessed the order from the GST Common Portal and immediately thereafter, the petitioner took steps to file Appeal, and in doing so, there happened to be a delay. Therefore, the learned counsel prays for setting aside the impugned orders on any terms.

4. Mr.C.Harsha Raj, learned Special Government Pleader (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 first respondent/Assessing Officer dated 18.02.2025, the petitioner preferred an Appeal before the Appellate Authority/second respondent, however, in preferring such Appeal, there was a delay much beyond the condonable period of limitation. According to the learned counsel for the petitioner the reason for the delay is that the petitioner was totally unaware of the assessment order passed by the first respondent, as the petitioner has closed down her business two years ago, only NIL returns have been filed by the petitioner regularly as a matter of GST compliance, therefore, the petitioner had no occasion to view the Portal, and only when the petitioner accessed the Portal during June, 2025, the petitioner came to know of the order dated 18.02.2025 being uploaded in the Portal, and immediately thereafter, the petitioner took steps to file Appeal, and in doing so, there was delay. However, the second 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 first respondent dated 18.02.2025 along with summary of the order, and the order of rejection of the Appeal passed by the second respondent dated 25.07.2025 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 second 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 first 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

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,
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