IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.08.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.31979 of 2025
and
W.M.P.Nos.35819 & 35822 of 2025

Ponnagounder Balasubramaniam
Proprietor, M.B.Transports. ...Petitioner

Vs.

1. The Deputy Commissioner (CT)
   Salem.

2. The Deputy State Tax Officer 2 (ST)
   Mettur Assessment Circle, Mettur. ...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 files of the first respondent in Reference No.ZD330725177864W dated 17.07.2025 and to quash the same as invalid.

For Petitioner : M/s. Siri Chandana
for Mr.V.Srikanth

For Respondents : M/s. P.Selvi
Government Advocate (T)

<u>Order</u>

Heard M/s. Siri Chandana, learned counsel appearing for the petitioner and M/s. P.Selvi, 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 first respondent dated 17.07.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that aggrieved by the assessment order passed by the Assessing Officer dated 18.02.2025, the petitioner preferred an Appeal before the Appellate Authority/first respondent, however,the first respondent/Appellate Authority by virtue of the impugned order dated 17.07.2025 dismissed the Appeal on the ground of delay.

3.1 The learned counsel for the petitioner would further submit that the delay in filing the Appeal is neither wilful nor wanton, but, purely due to the reason that the petitioner's Accountant had left the petitioner concern abruptly, without informing the petitioner about the issuance of show cause notice and the assessment order and only when the second respondent directed the petitioner to pay the balance of amount as per the assessment order, the petitioner came to know of the assessment order, and therefore, the Appeal could not be filed in time but filed with a delay of 19 days, since the delay is beyond the condonable period of limitation, the first respondent/Appellate refused to entertain the Appeal and dismissed the Appeal by virtue of the order impugned herein. Therefore, the learned counsel prays for setting aside the impugned order.

4. The learned Government Advocate (T) for the respondents submitted that as the petitioner failed to file the Appeal in time, the same came to be rightly dismissed by the first respondent/Appellate Authority, however, he fairly submitted that, in the event, this Court is inclined to set aside the impugned order, subject to certain condition, 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 Assessing Officer dated 18.02.2025, the petitioner preferred an Appeal before the Appellate Authority/first respondent, however, in preferring such Appeal, there happened to be a delay of 19 days. According to the learned counsel for the petitioner the reason for the delay is that the petitioner's Accountant left the petitioner-Concern abruptly without informing the petitioner about the show cause notice and the assessment order and the petitioner came to know of the assessment order only when the second respondent directed the petitioner to pay the arrears of tax as per the assessment order. 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.

6.2 Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The delay is condoned. Consequently, the impugned order passed by the first respondent/Appellate Authority dated 17.07.2025 is 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 such 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 Petitions are closed.

22.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

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   Salem.

2. The Deputy State Tax Officer 2 (ST)
   Mettur Assessment Circle, Mettur.

Krishnan Ramasamy,J.,

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