IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.33355 of 2025
and
W.M.P. Nos.37490 and 37489 of 2025

Tvl. Sri Sun Engineering
Rep. by its Proprietor Mr.Mannappillai Shanmugam
Having registered address at
No.9 A, P.E.Koil West Mada Street,
Ayanavaram, Chennai-600 023.

Petitioner(s)

Vs

1.The Deputy Commissioner (CT),
Office of the Deputy Commissioner (ST),
GST Appeals, Chennai I, Main Building,
2nd Floor, Greams Road, Chennai-600 006.

2.The Deputy State Tax Officer-1,
Officer of the Assistant Commissioner (ST),
Ayanavaram Assessment Circle,
No.F 50, First Avenue, Anna Nagar East,
Chennai 600 102.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to impugned order passed in Form GST DRC-07 vide Ref.No.ZD330523119685E dated 25.05.2023 by the 2nd respondent and the consequential appeal rejection order by the 1st respondent in Form GST APL-02 dated 05.05.2025 having refrerence No.ZD330525018601S and quash the same.

For Petitioner(s) : Mr.Mansoor Ilahi

For Respondent(s) : Mr.T.N.C.Kaushik
Additional Government Pleader

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The challenge in this Writ Petition is to the order passed by the 1st respondent dated 05.05.2025 and to quash the same.

3. It is submitted by the learned counsel for petitioner that challenging the order passed by the 2nd respondent dated 25.05.2023, petitioner preferred an Appeal before the 1st respondent, along with payment of 10% of the tax as pre-deposit for filing the Appeal, but the Appeal came to be rejected by the first respondent vide order dated 05.05.2025 on the ground of delay and challenging the same the present Writ Petition is filed.

3.1. Learned counsel for the petitioner would submit that the delay in filing the Appeal is 67 days and the same is neither wilful nor wanton, and therefore, prays for setting aside the impugned order dated 05.05.2025. Further, learned counsel for petitioner placed reliance upon the recent judgment of this Court in the case of **Palanimalai Murugan Agency v. The Deputy Commissioner**

(ST)(GST) Appeal ***in W.P.No.27353 of 2025 dated 11.07.2025,*** to submit that this Court has remanded the matter back in similar circumstances subject to payment of 5% of the disputed taxes in addition to the statutory deposit of 10% of the tax already paid by the petitioner at the time of filing Appeal. Agreed to by the learned Addl. Government Pleader appearing for respondents.

4. In view thereof, the writ petition stands disposed of with the following directions consented by the learned counsel on both sides:

i) The impugned order passed by the 1st respondent/Appellate Authority dated 05.05.2025 is set aside, subject to the condition that the petitioner deposits 5% of the disputed tax in addition to the statutory deposit of 10% of the tax already paid by the petitioner at the time of filing Appeal, within a period of two weeks from the date of uploading of order copy without waiting for the receipt of certified copy.

ii) Thereafter, the 1st respondent/Appellate Authority, upon verification of proof with regard to the payment of 5% of the disputed tax made by the petitioner, is directed to admit and entertain the Appeal and dispose of the same in accordance with law.

iii) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted/withdrawn on complying with the above condition viz., payment of 5% of the disputed taxes.

5. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

09.09.2025

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
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To:

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MOHAMMED SHAFFIQ, J.

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