IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.32196 of 2025

and
W.M.P.Nos.36085 & 36088 of 2025

Tvl SKB Jewel Mart
rep by its Proprietor
Devarajan Balakrishnan ..Petitioner

Vs.

1 Deputy Commissioner (CT)
O/O. DEPUTY COMMISSIONER GST APPEALS,
ERDOE, NO. 61, COMMERCIAL TAXES BUILDING
2ND FLOOR, BROUGH ROAD ERODE- 638 001.

2 Assistant Commissioner (ST)
Krishnagiri II
Circle KRISHNAGIRI. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the impugned order of the 1st Respondent in Reference No.

ZD330225270456H dated 26.02.2025 quash the same and consequently direct the 1st Respondent to number the appeal filed against the Assessment Order dated 13.10.2023 for the Assessment Year 2019-2020.

For Petitioner : Mr.M.Hariharan

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader (T)

Order

Heard Mr.M.Hariharan learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Additional Government Pleader (T), who takes notice on behalf of the respondent. 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 26.02.2025 and to quash the same and consequently, to direct the 1st Respondent to number the appeal filed against the Assessment Order dated 13.10.2023.

3. The learned counsel for the petitioner would submit that aggrieved by the assessment order passed by the second respondent/Assessing Officer dated 13.10.2023 the petitioner preferred an Appeal before the first respondent, however, the same came to be rejected by virtue of the impugned order dated 26.02.2025 on the ground of delay; that challenging the said rejection order of Appeal passed by the first 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 second respondent was an ex parte order, and that there was no communication of the assessment order dated 13.10.2023 by any other modes of service, i.e. by registered post or SMS and was merely uploaded in the Portal and due to prolonged absence of the petitioner's Accountant, who was on her maternity leave, the petitioner was unable to check the portal, and immediately on coming to know of the assessment order, the petitioner took steps to file Appeal, and in doing so, there happened to be a delay. The learned counsel further submitted that the petitioner is also willing to deposit 15% of the disputed tax in the event of the delay being condoned and the impugned order is set aside and thus, prays for an appropriate orders.

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 first respondent/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, the petitioner preferred an Appeal before the Appellate Authority/first 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 second respondent, as the petitioner's Accountant was on maternity leave for prolonged period and hence, the petitioner was unable to check the portal and further, the assessment order was not served in person but was only uploaded in the Portal, therefore, the petitioner was not aware of the assessment order, and on immediately after coming to know about the said assessment order, the petitioner took steps to file Appeal, and in doing so, there was delay. 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 order of rejection of the Appeal passed by the first respondent dated 26.02.2025 is set aside, however, the same is subject to the condition that the petitioner deposits 15% 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 15% 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 Petitions are closed.

26.08.2025

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Index : yes/no
Neutral Citation : yes/no

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