IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32252 of 2025
and
W.M.P.Nos.36163, 36164, 36166 and 36167 of 2025

Pulikutmadom Krishna Iyer Balasubramanian,
Proprietor of Tvl. Triumph Industries,
3/276-1b, Senthottam,
Muthugoundan Pudur, Coimbatore,
Tamil Nadu - 641 406.

... Petitioner

Vs.

1. Deputy Commercial Tax Officer /
   Deputy State Tax Officer - 1 (ST),
   Karumathampatti Assessment Circle,
   Karumathampatti, Coimbatore III,
   Coimbatore, Tamilnadu.

2. The Deputy Commissioner (CT),
   Coimbatore, Tamilnadu.

3. The Assistant Commissioner (ST)
   Karumathampatti Assessment Circle
   2nd Floor Commercial Taxes Building,
   Dr. Balasundaram Road, Coimbatore - 641 018.

4. The Branch Manager,
   Federal Bank, Ground Floor,

10, Kalangal Road, Sulur, Coimbatore,
Tamilnadu - 641 402.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records in 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 7.02.2025 and having Reference Number ZD330225079316G and its annexure dated 07.02.2025 in GSTIN: 33ACAPB7760N1ZL/2021-21 passed by the First respondent for FY 2020-21 along with the acknowledgement in Form GST APL-02 dated 04.08.2025 having Reference Number ZD330825026008K 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 as illegal, contrary to the provisions of the Tamil Nadu Goods and Service Tax Act, 2017 / Central Goods and Service Tax Act, 2017 and in violation of principles of natural justice.

For Petitioner : Mr.Subash Anbarasu
for Mr.N.V.Balaji

For R1 to R3 : Mrs.K.Vasanthamala
Government Advocate
(Taxes)

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Taxes), 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 assessment order dated 07.02.2025 along with summary order dated 07.02.2025 passed by the respondent and to quash the same.

3. The learned counsel for the Petitioner submitted that the 1st respondent issued show cause notice dated 05.11.2024, followed by reminder notices dated 09.12.2024, 19.12.2024 and 27.12.2024 to the petitioner, for which the petitioner submitted its reply on 15.12.2024. But the 1st respondent with considering the same has passed the assessment order dated 07.02.2025 which was uploaded in the GST portal. The petitioner came to know of the same belatedly. Subsequently, the petitioner filed an appeal before the 2nd respondent on 04.08.2024 with a delay of 89 days and the same was rejected by the 1st respondent on the ground of delay.

4.The learned counsel for the petitioner would submit that since the assessment order was uploaded in the GST portal without serving physical copy of the same to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the same, only after initiation of recovery proceedings by the respondent and hence there is a delay of 89 days in filing the Appeal. Though a challenge has been made with regard to the assessment, the learned counsel for the petitioner requested this Court to condone the delay and direct the 2nd respondent to dispose of the appeal within the stipulated period.

5. The learned Government Advocate (Taxes) appearing for the respondents would submit that since the 2nd respondent has no power to condone the delay beyond the period of limitation, the appeal filed by the petitioner came to be rejected. Further, he would submit that this Court may condone the delay subject to terms.

6. In reply, the learned counsel for the petitioner would submit that the petitioner has already deposited 10% of the statutory deposit at the time of filing the appeal and is ready and willing to deposit additional 5% of the disputed tax before the appellate authority, in the event if the delay is condoned and the appeal is taken on record. He has also made an endorsement to that effect.

7. Heard both sides and also perused the materials available on record.

8. In the present case, it is stated by the petitioner that since the assessment order was uploaded in the GST portal, without serving physical copy to the petitioner, the petitioner was unaware of the same. The petitioner came to know of the assesement order only after initiation of recovery proceedings by the respondents, which resulted in delay in filing the appeal.

9. Considering the facts and circumstances of the case, this Court is of the view that the reasons assigned by the petitioner for delay in filing the appeal appears to be genuine. Therefore, this Court is inclined to set aside the order passed by the 2nd respondent dated 04.08.2025 and condone the delay of 89 days in filing the Appeal before the 2nd respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the order dated 04.08.2025 passed by the 2nd respondent is set aside and the delay of 89 days in filing the appeal before the 2nd respondent is condoned subject to payment of additional deposit of 5% of disputed tax, as agreed by the petitioner, over the above the statutory deposit of 10% already made by the petitioner before the 2nd respondent, within a period of two weeks from the date of receipt of a copy of this order.
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> (ii) On such payment being made, the 2nd respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing 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 petitions are closed.

25.08.2025

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

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KRISHNAN RAMASAMY.J.,

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