IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.32768 of 2025
and
W.M.P. Nos.36680 and 36681 of 2025

M/s.KA.Co.
Represented by its proprietor,
Mr.Riaz Bin Kaleem. ... Petitioner

Vs.

1.The State Tax Officer (FAC),
Thiruvallikeni Assessment Circle,
Chennai-600 035.

2.The Deputy Commissioner (CT),
Greams Road,
Chennai-600006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the respondent and to quash the impugned assessment order dated 22.02.2025 bearing GSTIN No.33AAJPR3876L1Z3/2020-21 passed by the first respondent and its consequential order of rejection of appeal dated 25.07.2025 bearing GSTIN No.33AAJPR3876L1Z3 passed by the second respondent as arbitrary.

For Petitioner : Mr.J.Ashish

For Respondent : Mr.Amirtha Dinakaran
Government Advocate

ORDER

The present petition is filed challenging the impugned assessment order dated 22.02.2025 and the order of the appellate authority dated 25.07.2025

2. Mr.J.Ashish, learned counsel appearing for the petitioner would submit that challenging the order passed by the first respondent dated 22.02.2025, the petitioner preferred an Appeal before the second 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 second respondent vide order dated 25.07.2025 on the ground of delay and challenging the same the present Writ Petition is filed.

3. Learned counsel for the petitioner would submit that they ought to have filed an appeal on or before 22.06.2025, however the appeal came to be filed on 27.06.2025, resultantly there is delay of 5 days beyond the condonable period. He would submit that the delay is neither wilful nor wanton, but owing to the fact that petitioner was not aware of the impugned order being uploaded in the portal and that the assessment order was passed without even affording the petitioner an opportunity to put-forth his case and therefore, prays for setting aside the order of

rejection of appeal. 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 Government Advocate for respondent.

4. In view thereof, the writ petition stands disposed of with the following directions:

i) The order of rejection of appeal dated 25.07.2025 passed by the second respondent/Appellate Authority dated 25.07.2025 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 second respondent/Appellate Authority, upon verification of the 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. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.09.2025

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

MOHAMMED SHAFFIQ, J.

mrn

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