IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2025

Coram:
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32928 of 2025
and W.M.P.Nos.36922 & 32923 of 2025

M/s.Shri Aishwarya Constructions,
Rep. by Muthusamy Gopal,
86, NA, Lingagoundan Valasu,
Poondurai Semur Post,
Erode – 638 115. ...Petitioner

Versus

1.The Deputy Commissioner
(Commercial Tax) (FAC),
Goods and Service Tax (Appeal),
Appellate Authority,
Erode.

2.The Deputy Commercial Tax Officer,
Kodumudi, Karur,
Erode. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the impugned Summary Order dated 03.10.2024 in DRC-07 vide Ref.No.ZD331024012954S passed by the 2nd respondent and the consequential dismissal of the impugned Appeal Order dated 05.02.2025 vide Ref.No.ZD330225051280Z passed by the 1st respondent and quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the GST Act, 2017.

For Petitioner	:	Ms.R.Reshma
For Respondents	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

The present writ petition has been filed challenging the Summary Order in Form GST DRC-07 dated 03.10.2024 passed by 2nd respondent and Appeal Order dated 05.02.2025 passed by 1st respondent.

2. The learned counsel for the petitioner submitted that challenging the Order in Form GST DRC-07 dated 03.10.2024 passed by 2nd respondent, the petitioner preferred an Appeal before 1st respondent and paid 10% of the disputed tax as pre-deposit for filing the Appeal, but, the petitioner's Appeal came to be rejected by 1st respondent vide Order dated 05.02.2025 on the ground that reason for delay has not been adduced. Aggrieved over the same, the petitioner has filed this writ petition.

2.1. It is also submitted by the learned counsel for the petitioner that the delay in filing the Appeal is 18 days and the same is neither wilful nor wanton, but owing to the fact that the petitioner's authorized Representative viz., Muthusamy Gopal came to know that he can file appeal against the Assessment Order under Section 73 of the GST Act, 2017 only when he approached his Auditor.

2.2. Further, learned counsel for petitioner placed reliance on the recent judgment passed by this Court in the case of ***Palanimalai Murugan Agency Vs. The Deputy Commissioner (ST) (GST) Appeal & Anr. in W.P.No.27353 of 2025 dated 11.07.2025*** to submit that in similar circumstances, this Court has remanded the matter back to the respondent subject to the payment of 5% of disputed tax in addition to the statutory deposit of 10% of disputed tax already paid by the petitioner at the time of filing of Appeal.

3. The above submission made by the learned counsel for the petitioner has been fairly conceded by the learned Government Advocate (Tax) appearing for respondents.

4. By consent of the learned counsel on both sides, this Writ Petition stands disposed of with the following directions:

(i) The Appeal Order dated 05.02.2025 passed by 1st respondent/Appellate Authority is quashed, subject to the condition that the petitioner shall pay 5% of disputed tax in addition to the statutory deposit of 10% of disputed tax already paid by the petitioner at the time of filing of Appeal, within a period of two weeks from the date of uploading of web copy of this order without waiting for the receipt of a certified copy of this order.

(ii) Thereafter, the 1st respondent/Appellate Authority, upon verification of the proof with regard to the payment of 5% of the disputed tax made by the petitioner, shall admit and entertain the petitioner's 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 i.e., deposit of 5% of disputed tax.

5. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

02.09.2025

mrr
Index : Yes/No
Speaking Order (or) Non-Speaking Order

To

1.The Deputy Commissioner
(Commercial Tax) (FAC),
Goods and Service Tax (Appeal),
Appellate Authority,
Erode.

2.The Deputy Commercial Tax Officer,
Kodumudi, Karur,
Erode.

MOHAMMED SHAFFIQ, J.

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W.P.No.32928 of 2025

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