IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2025

Coram:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.33045 of 2025
and W.M.P.Nos.37081 & 37086 of 2025

Rasichetty Suresh
Proprietor NS3 Projects,
3/1, Kallikottai Main Road,
Kondalampatty, Salem,
Tamil Nadu – 636 010.

...Petitioner

Versus

1.Assistant Commissioner,
Kodalampatty Circle,
Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty,
Salem – 636 007.

2.Deputy Commissioner Commercial Taxes (Appeals),
2nd Floor, Integrated Commercial Taxes Building,
GST Commissionerate Pitchards Road,
Hasthampatty, Salem – 636 007.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order in Form GST APL – 02 dated 10.06.2025 bearing reference ZD330625092470F issued by the 2nd respondent, to quash the same and direct the 2nd respondent to restore the Appeal filed by the petitioner.

For Petitioner	:	M/s.Disha Jain
For Respondents	:	Mrs.R.Vasanthamala, Government Advocate

ORDER

The relief sought in this writ petition is to quash the Order in Form GST APL – 02 dated 10.06.2025 passed by 2nd respondent and direct the 2nd respondent to restore the Appeal filed by the petitioner.

2. The learned counsel for the petitioner submitted that challenging the Summary Order in Form GST DRC-07 dated 16.12.2024 passed by 1st respondent, the petitioner preferred an Appeal before 2nd 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 2nd respondent vide Order dated 10.06.2025 on the ground, "delay in submission of Appeal". Aggrieved over the same, the petitioner has filed this writ petition.

2.1. It is also submitted by the learned counsel for petitioner that the delay in filing the Appeal is neither wilful nor wanton, but owing to the fact that prior to the filing of Appeal, the petitioner filed a Rectification Application dated 26.02.2025 before 1st respondent seeking to rectify the errors in Summary Order in Form GST DRC-07 dated 16.12.2024, but, the same was rejected by 1st respondent vide Order dated 05.03.2025 and thus, the petitioner preferred the Appeal before 2nd respondent belatedly on 04.06.2025.

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 respondent.

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

(i) The Order in Form GST APL – 02 dated 10.06.2025 passed by 2nd 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 2nd 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.Assistant Commissioner,
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Integrated Commercial Taxes Building,
Pitchards Road, Hasthampatty,
Salem – 636 007.

2.Deputy Commissioner Commercial Taxes (Appeals),
2nd Floor, Integrated Commercial Taxes Building,
GST Commissionerate Pitchards Road,
Hasthampatty, Salem – 636 007.

MOHAMMED SHAFFIQ, J.

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W.P.No.33045 of 2025

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