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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34071 of 2025
and
W.M.P. Nos.38224 and 38226 of 2025

Tvl.Abiramapuram Ambika Appalam Depot,
Represented by its Proprietor,
Tmt.Nirmala,
No.65, G.S.Flats, C.P.Ramasamy Road,
Chennai-600 018. ...Petitioner(s)

vs.

1.State Tax Officer,
Alwarpet Assessment Circle,
Integrated Registration and Commercial Taxes Building,
No.207, 2nd Floor, Government Farm Village,
Nandanam, Chennai-600 035.

2.Deputy Commissioner (ST),
GST Appeal-II,
Commercial Taxes Main Building,
2nd Floor, Greams Road,
Chennai-600 006. ...Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the impugned order on the file of the 1st respondent in DRC-07 Ref.No.ZD330824082810D dated 10.08.2024 passed under Section 73 of the Tamil Nadu Goods and Services Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 hereinafter referred to as GST Act, 2017 and order in reference ZD330325193337B for the assessment year 2019-20 dated 25.03.2025 passed by the 2nd respondent and quash the same as illegal and devoid of merits.

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For Petitioner(s) : Mr.T.Suresh

For Respondent(s) : Mrs.R.Vasanthamala
Government Advocate

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.

2. The challenge in this Writ Petition is to the order passed by the 2nd respondent dated 25.03.2025.

3. It is submitted by the learned counsel for petitioner that challenging the order passed by 1st respondent dated 10.08.2024, petitioner preferred an appeal before the 2nd 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 2nd respondent vide order dated 25.03.2025 on the ground of delay and challenging the same, the present Writ Petition is filed.

3.1. Learned counsel for petitioner would submit that the delay in filing the appeal is 4 days and the same is neither wilful nor wanton, but due to negligence on the part of petitioner's consultant who failed to notice the orders uploaded on the GST Portal. It is stated that petitioner came to know about the initiated proceedings only later and thereafter filed an appeal, and therefore,

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prays for setting aside the appeal rejection order dated 25.03.2025. 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 appearing for respondents.

4. In view thereof, the writ petition stands disposed of with the following directions consented by the learned counsel on both sides:

i) The impugned rejection order passed by the 2nd respondent/Appellate Authority dated 25.03.2025 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 2nd respondent/Appellate Authority, upon verification of 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

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

12.09.2025

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

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<u>MOHAMMED SHAFFIQ, J.</u>

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