IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5427 of 2025
and
W.M.P.Nos.5976 & 5982 of 2025

JS and Sons,
86/102, Kamdar Nagar,
3rd Cross Street,
Kodambakkam,
Chennai 600 034.
Rep by its Proprietor.

... Petitioner

Vs.

1.Appellate Deputy Commissioner,
Chennai

2.Assistant Commissioner (ST),
Vallurvarkottam Assessment Circle,
Chennai

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent leading to issuance of impugned order dated

23.10.2024 vide ARN No.AD3304240528255 and quash the same and to direct the 1st respondent to take on record the appeal by condoning the delay.

For Petitioner	:	Mr.S.Sathyanarayanan
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 23.10.2024 passed by the 1st respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the 1st respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, initially, the show cause notice dated 27.09.2023 was uploaded by the respondents under the "View Additional Notices and Orders". Being unaware of the said notice, the petitioner had neither

filed reply nor participated in the personal hearing before the respondents. Under these circumstances, the *ex parte* assessment order was passed on 27.12.2023. Thereafter, the petitioner came to know about the said impugned order only on 12.04.2024. Immediately, on 29.04.2024, they had filed an appeal against the assessment order before the 1st respondent. However, the said appeal was rejected by the 1st respondent vide impugned order dated 23.10.2024 on the aspect of limitation.

4. Further, he would submit that the respondent is supposed to have served the assessment order by virtue of RPAD instead of simply uploading the same in the portal. Hence, he requests this Court to condone the delay of 30 days in filing the appeal.

5. In reply, the learned Additional Government Pleader appearing for the respondents would submit that though the assessment order was uploaded on 27.12.2023, the petitioner had filed their appeal against the said assessment order only on 29.04.2024, i.e., with a delay of 30 days,

and hence, he requests this Court to pass any appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and also perused the materials available on record.

7. In the present case, it appears that the *ex parte* assessment order was passed on 27.12.2023 and the same was uploaded by the respondents under the "View Additional Notices and Orders", due to which, the petitioner has failed to verify the portal. Thereafter, they came to know about the said order only on 12.04.2024. Immediately, on 29.04.2024, they had filed an appeal against the assessment order before the 1st respondent. However, the said appeal was rejected by the 1st respondent vide impugned order dated 23.10.2024 on the aspect of limitation.

9. As contended by the petitioner, the respondent is supposed to have served the assessment order by virtue of RPAD instead of simply

uploading the same in the portal. On the other hand, as per the provisions of Section 13 of the Information Technology Act, 2000, in the event of uploading the notice or order in the portal, the receipt of the same occurs only at the time when the said electronic record is retrieved by the Assessee. In this case, the petitioner had retrieved the impugned order only on 12.04.2024 and hence, only the said date has to be considered as date of service. If the said date (12.04.2024) is taken into consideration, as on date, the filing of appeal by the petitioner is well within the limitation.

10. For all the reasons stated above, this Court is inclined to set aside the impugned order passed by the respondent. Accordingly, this Court passes the following order:

i) The impugned order dated 23.10.2024 passed by the 1st respondent is hereby set aside.

ii) The 1st respondent is directed to consider the appeal filed by the petitioner and pass appropriate orders on its own merits and in accordance with law, by providing sufficient opportunity to the petitioner, without pressing for limitation.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

18.02.2025

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

To

1.Appellate Deputy Commissioner,
Chennai

2.Assistant Commissioner (ST),
Vallurvarkottam Assessment Circle,
Chennai

KRISHNAN RAMASAMY.J.,

nsa

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