BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.3401 of 2025
and WMP(MD) No.2437 of 2025

M/s.Sivasubramanian Laxmanan
SSS Envelopes. : Petitioner

Vs.

1. The Deputy Commissioner (ST)
CST Appeal, Madurai & Tirunelveli
Commercial Taxes Building 4th Floor
Dr.Thangaraj Salai, KK Nagar,
Madurai – 625 020.

2.The Deputy State Tax Officer (ST)
Chokkikulam Assessment Circle
Commercial Taxes Building 4th Floor
Dr.Thangaraj Salai, KK Nagar,
Madurai – 625 020. : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in reference No.ZD3312240474281 dated 05.12.2024 and the impugned order passed the second respondent in GST DRC – 07 in reference No,ZD330424126326P dated 16.04.2024 and quash them both and consequently direct the second respondent to re-do the assessment for the tax period 2019 – 2020 after giving reasonable opportunity to the petitioner.

For Petitioner : Mr.J.William Christopher

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the impugned order of demand passed by the second respondent dated 16.04.2024 and the order of the first respondent dated 05.12.2024, rejecting the appeal filed by the petitioner against the order of demand.

2. The petitioner is a registered sole proprietorship firm bearing GST registration No. GSTN33ABBPL5505H21Z5 and he has opted for quarterly filing of returns. While filing GSTR2 for the third quarter of December 2019, the petitioner inadvertently filed GSTR2 for June 2019 and September 2019. Subsequently, on 03.08.2023, a show-cause notice was issued by the second respondent to the petitioner regarding the discrepancy between GSTR1 and GSTR3B for the tax period 2019 – 2020. It is the case of the petitioner that since he was suffering from acute lumber disc prolapsed, he was unable to appear before the second respondent. While being so, the second respondent

issued notice on 11.10.2023 under Sections 73(1) and 73(5) of the GST Act 2017 read with Section 142(1A) of the TNGST Rules 2017, directing the petitioner to pay the tax along with the interest and penalty for the difference between GSTR1 and GSTR3B for the tax period 2019 – 2020.

3. The main grievance of the petitioner is that since the impugned demand notice was uploaded in the GST portal and the hardcopy of the notice was served only on 16.04.2024, the petitioner was constrained to file the appeal with a delay of 142 days. The said appeal was rejected due to the delay of 142 days. Aggrieved by this, the present writ petition has been filed by the petitioner.

4. Per contra, the learned Special Government Pleader appearing for the respondents would fairly submit that if the Court finds sufficient and reasonable cause for the delay, appropriate orders may be passed.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Considering the arguments made by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents, as well as the fact that the notices, which were uploaded in the portal were served to the petitioner belatedly, this Court is of the view that the petitioner has demonstrated reasonable cause for the delay. Therefore, the Court is inclined to condone the delay of 142 days in filing the appeal.

7. Accordingly, the writ petition is allowed. The delay of 142 days in filing the appeal before the first respondent is condoned and the order of the appellate authority/first respondent is hereby set aside. There shall be a direction to the first respondent to take up the appeal and dispose of the same on merits and in accordance with law, after affording an opportunity of hearing to the petitioner. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.02.2025

Index : Yes / No
Internet : Yes / No

PKN

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VIVEK KUMAR SINGH, J.

PKN

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