BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5259 of 2025
and
W.M.P.(MD)Nos.3862 and 3863 of 2025

M/s.Sivasurya Agencies,
Rep. by its Partner M.Manoharan,
GSTIN 33ACWFS4279H1ZG,
No.1452, Thiruppathi Nagar,
Thiruthangal, Sivakasi- 626130. ... Petitioner

-vs-

1.The Deputy State Tax Officer – II,
Virudhunagar - 3 Assessment Circle,
Virudhunagar.

2.The Appellate Deputy Commissioner (CT),
Commercial Taxes Buildings,
Reservelane, Palayamkottai. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in GSTIN : 33ACWFS4279H1ZG/2022-23, dated 06.10.2023, for the assessment year 2022-2023 passed by the first respondent under Section 74 of TNGST Act 2017 and consequential rejection order dated 29.10.2024, issued by the second respondent in Form GST APL-02 and to quash the both as cryptic, non-speaking, illegal, arbitrary wholly without jurisdiction and direct the respondents to pass order afresh after affording opportunity of personal hearing as contemplated under section 75(4) of the TNGST Act 2017.

For Petitioner	:	Mr.N.Sudalai Muthu
For Respondents	:	Mr.J.K.Jayaselan Government Advocate

ORDER

This writ petition is filed challenging the order passed by the first respondent, dated 06.10.2023, for the Assessment Year 2022-2023 and the consequential rejection order dated 29.10.2024, passed by the second respondent in Form GST APL-02.

2. The learned counsel for the petitioner submits that due to lack of knowledge about GST and limited portal access, the petitioner had fully relied on a part-time accountant, who failed to inform the petitioner about the assessment proceedings. As a result, the petitioner was unable to participate in the adjudication proceedings, which leads to the issuance of the ex parte impugned order dated 06.10.2023. Subsequently, the petitioner filed an appeal before the second respondent, which was rejected on the grounds of limitation. The delay of

48 days in filing the appeal was solely due to the proprietor's ill-health and therefore, no adverse inference should be drawn.

3. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents submits that the petitioner's claim of lack of knowledge regarding GST and portal access is an afterthought and does not constitute a valid ground for condoning the delay. The learned Government Advocate further contends that the petitioner, despite having the responsibility to ensure compliance with GST regulations, failed to take necessary steps to monitor the proceedings. The failure of the part-time accountant to inform the petitioner, does not absolve the petitioner of their duty to be vigilant about the legal proceedings. The petitioner's inability to participate in the adjudication proceedings cannot be considered as a valid excuse for the ex parte order. The learned Government Advocate further submits that the delay of 48 days in filing the appeal is not sufficiently explained and that there is no justifiable reason to condone such delay.

4. Heard both sides.

5. After considering the submissions made by both parties, this Court finds that while the petitioner's failure to actively participate in the adjudication process cannot be entirely excused, the delay in filing the appeal of 48 days has been adequately explained by the petitioner's ill-health. Therefore, in the interest of justice, this Court is inclined to condone the delay. Accordingly, the impugned order passed by the second respondent, dated 29.10.2024, is set aside and the delay in filing the appeal is condoned and the matter is remitted back to the second respondent. The second respondent is directed to decide the appeal, within a period of two months from the date of receipt of a copy of this order. The petitioner is also directed to ensure proper representation in future proceedings and the second respondent is advised to consider all the relevant documents and submissions made by the petitioner while deciding the appeal.

6. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

27.02.2025

To:-

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VIVEK KUMAR SINGH, J.

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