BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5437 of 2025
and
W.M.P.(MD)Nos.3986 and 3987 of 2025

N.V.Boopathi Stores,
No.130/6-B, Palayamcottai Road,
Thoothukudi, Thoothukudi District.
Rep. by its Proprietor V.Baskaran,
S/o.Veeramachandra Boopathi,
No.4A, Lavender Street,
Malles AV Garden,
Mugalivakkam,
Thanjavur District. ... Petitioner

-vs-

1.The Deputy Commissioner (Appeal),
The Commercial Taxes Department,
Commercial Taxes Buildings,
South High Ground Road,
Palayamkottai, Tirunelveli - 627002.

2.The Deputy Commercial State Tax Officer-1,
O/o. the Deputy Commercial State Tax Officer-1,
Tuticorin III Circle,
C.T. Buildings, A.R.Line Road,
Tuticorin – 628001. ... 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 impugned communication in FORM GST APL-02 vide Reference No.ZD3308240737841, dated 09.08.2024, by rejecting the appeal filed by the petitioner by reasoning that the delay in filing the appeal and quash the same as illegal, arbitrary and unconstitutional and consequently, direct the first respondent to entertain the appeal dated 07.08.2024.

For Petitioner	:	Mr.D.Balamurugapandi
For Respondents	:	Mr.J.K.Jayaselan Government Advocate

ORDER

This writ petition is filed challenging the impugned communication of the first respondent, dated 09.08.2024, rejecting the appeal filed by the petitioner on the ground of delay.

2. The learned counsel for the petitioner submits that due to illness, the petitioner closed his business and cancelled his GST registration. Further, due to lack of knowledge in using the GST portal and his illness, the petitioner was unable to participate in the proceedings before the second respondent, which resulted in passing of the assessment order dated 29.12.2023. Aggrieved by the same, the petitioner filed an appeal before the first respondent on 07.08.2024, which was rejected on the ground of delay. The learned counsel further submits that the assessment order for the year 2017-2018 was passed without providing sufficient opportunity to the petitioner, which according to the petitioner, is in violation to the principles of natural justice. Therefore, the order impugned in this writ petition, is liable to be set aside.

3. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents vehemently opposed the Writ Petition contending that the delay cannot be condoned, as the appeal has been filed beyond the period of limitation.

4. However, considering the fact that the petitioner suffered a heart attack and was advised to take rest during the said period, the impugned order is set aside. In view of the same, the first respondent is directed to number the appeal filed by the petitioner, hear it and dispose of the same on merits and in accordance with the law.

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

NCC : Yes / No **28.02.2025**
Index : Yes / No
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VIVEK KUMAR SINGH, J.

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W.P.(MD)No.5437 of 2025

28.02.2025