**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 25.03.2026**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD)No.2624 of 2026**
**and**
**W.M.P.(MD)Nos.2207 and 2209 of 2026**

A.Mahalingam ... Petitioner

-vs-

1.The Commissioner (Appeals),
Office of the Commissioner of GST and
Central Excise (Appeals),
Coimbatore, Circuit Office at Trichy,
No.1, Williams Road, Cantonment, Trichy – 620 001.

2.The Assistant Commissioner,
Office of the Assistant Commissioner of GST
and Central Excise,
Cuddalore Division,
No.1, Vallalar Nagar,
Manjakuppam, Cuddalore - 607 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent in Order-in-Appeal No.120/2024-ST-TRY-APP, dated 31.12.2024 and quash the same as arbitrary and consequently, direct the respondents to give one more opportunity to the petitioner for personal hearing.

For Petitioner : Mr.M.Narashima Bharathi

For Respondents : Mr.R.Gowrishankar
Senior Standing Counsel

**ORDER**

The writ petition is filed challenging the Order-in-Appeal dated 31.12.2024.

**2**. Upon hearing the learned counsel for the petitioner and perusing the material records of the case, it is seen that a show cause notice was issued to the petitioner on 15.04.2021. It is the case of the petitioner that, in view of the COVID-19 pandemic, he could not appear before the second respondent or submit his reply. Thereafter, by an order dated 28.07.2022, an Order-in-Original was passed by the first respondent confirming the demand. It was held that the value of services to the tune of Rs.51,19,716/- was short-declared, and a sum of Rs.7,53,358/- towards service tax, including Swachh Bharat Cess and Krishi Kalyan Cess, was confirmed. A penalty of an equivalent amount, along with an additional penalty of Rs.10,000/-, was also imposed.

**3**. It is further stated that the said order was passed during the COVID-19 period. Post-pandemic, the petitioner developed certain health complications and was engaged in minor contract works. It is only upon initiation of recovery proceedings, the petitioner filed the appeal. However, the same was dismissed on the ground of a delay of 247 days.

**4**. The learned counsel for the petitioner submitted that the delay occurred solely due to the COVID-19 pandemic and further submitted that the entire tax liability has since been discharged.

**5**. Per contra, the learned Senior Standing Counsel appearing for the respondent Department submitted that an appeal filed under Section 85 of the Finance Act, 1994 is subject to a prescribed limitation period, including an outer limit for condonation of delay. It was contended that any delay beyond such outer limit cannot be condoned.

**6**. I have considered the rival submissions and perused the material records of the case.

**7**. No doubt, it is true that where the delay exceeds the condonable limit, the appellate authority cannot condone the same, and ordinarily, this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, would not extend the period of limitation. However, in the present case, it is to be noted that both the show cause notice and the Order-in-Original were issued during the COVID-19 pandemic. Further, considering that the Central Goods and Services Tax regime was at a nascent stage, the Government issued Notification No. 53/2023 – Central Tax, dated 02.11.2023, enabling certain appeals filed beyond the condonable period to be treated as within time.

**8**. In view of the peculiar and special circumstances prevailing in the present case, I am of the view that the delay deserves to be condoned and the appeal ought to be considered on merits.

**9**. Accordingly, the impugned Order-in-Appeal dated 31.12.2024 is set aside. The delay in filing the appeal is condoned, and the appellate authority is directed to consider the appeal on its own merits and in accordance with law. Since the entire tax liability has already been realized, the freezing of the petitioner's bank account shall stand lifted.

**10**. Accordingly, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

**25.03.2026**

NCC : No
smn2

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**D.BHARATHA CHAKRAVARTHY, J.**

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