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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.3995 of 2025

and

W.M.P.(MD)Nos.2880, 2881 and 2883 of 2025

Tvl. Chennais Pet,
Represented by its Authorised Signatory
K.Rajendran,
2/269, Bommaiypuram, Uchapatti,
Kappalur, Madurai, Tamil Nadu – 625 008.

... Petitioner

-vs-

- 1.The State Tax Officer,
Thiruparankundram Assessment Circle,
Commercial Taxes Building,
Dr. Thangaraj Salai, Madurai – 625 020.
- 2.The Deputy Commissioner (ST) GST Appeals,
C.T. Building, Dr. Thangaraj Salai,
Madurai – 625 020.
- 3.The Branch Manager,
Tamilnad Mercantile Bank Ltd, Avadi Branch,
Plot No.7, G.D. Nadar Complex,
60 Feet Road, TNHB, Avadi – 600 054.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in GSTIN No. 33DBMPP0122E1Z3 of the first respondent and quashing the impugned order dated 15.07.2024 with the reference No.ZD330724185281E for the FY 2019-20 as arbitrary, without jurisdiction and void.

For Petitioner : Mr.Saitanya Kesan

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. The petitioner has challenged the impugned order dated 15.07.2024, passed by the first respondent, which sought the reversal of the input tax credit availed by the petitioner for the financial year 2019-2020.

3. The learned counsel for the petitioner submits that the notice in this case was uploaded in the additional notices column of the common portal and the consultant engaged by the petitioner was unaware of the proceedings initiated by the first respondent. As a result, the petitioner was unable to submit a timely



reply. The petitioner became aware of the impugned order only on 16.11.2024, when its bank account, maintained with the third respondent bank, was attached by the first respondent in recovery proceedings under Section 79 of the GST Act, 2017. Thereafter, the petitioner filed an appeal on 20.11.2024, along with a petition for condonation of the delay of 35 days under Section 107(4) of the GST Act, 2017. A pre-deposit under Section 107(6) of the Act was also made, amounting to 10% of the tax liability, *i.e.*, Rs.21,136/-.

4. The learned counsel for the petitioner further submits that the second respondent, by order dated 03.01.2025, in Form APL-02, rejected the appeal solely on the ground that the appeal was filed beyond the condonable period of limitation by 5 days. Further, in addition to the 10% pre-deposit of the tax liability under Section 107(6) of the Act, the petitioner has duly discharged an additional 15% of the disputed tax amount, *i.e.*, Rs. 8,009/- under CGST and Rs.23,696/- under SGST, as per Form GST-DRC-03, dated 31.01.2025. Thus, the petitioner has already discharged a total of Rs.13,348/- towards CGST and Rs.39,493/- towards SGST, which amounts to 25% of the disputed tax demand.



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5. The learned Government Advocate appearing for the respondents submits that the petitioner claims to have been unaware of the proceedings initiated by the first respondent, due to the notice being uploaded in the additional notices column of the common portal. However, the petitioner has not demonstrated due diligence in monitoring the common portal, which is the standard procedure for such notices. Despite the petitioner's claims of ignorance, the fact remains that the notice was validly uploaded in the portal, and the petitioner failed to take appropriate action within the stipulated time. The petitioner cannot be allowed to benefit for their own neglect or failure to monitor the portal for notices.

6. The learned Government Advocate further submits that the petitioner's appeal was filed with a delay of 35 days and the second respondent, by order dated 03.01.2025, rightly rejected the appeal on the sole ground that it was beyond the condonable period of limitation by 5 days. The statutory time limit for filing the appeal is strict and allowing the appeal beyond the prescribed time would be contrary to the principles of natural justice and the statutory provisions.



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7. The learned Government Advocate also submits that while the petitioner has made a pre-deposit of 10% of the tax liability and additional payments under Section 107(6) of the GST Act, 2017, these payments do not negate the fact that the appeal was filed beyond the prescribed period.

8. Heard both sides.

9. Considering the above submissions, this Court finds that the second respondent, in rejecting the petitioner's appeal on the ground of delay, applied the provisions of the GST Act strictly. However, it is the opinion of this Court that the delay of 35 days in filing the appeal, while significant, could be condoned in the interests of justice, considering the circumstances surrounding the delay and the actions already taken by the petitioner to discharge a substantial portion of the disputed tax liability.

10. In view of the above, this Court is of the view that the appeal should not be dismissed merely due to a procedural delay, especially when the petitioner has made an effort to comply with the statutory requirements, including the pre-



deposit of 10% of the tax liability and additional payments towards the disputed tax amount. Therefore, this Court is inclined to provide the petitioner an opportunity to present the matter on its merits before the second respondent.

11. In the light of the above discussions, the order of the second respondent, dated 03.01.2025, is set aside and the matter is remanded back to the second respondent for fresh consideration, directing the second respondent to consider the appeal on its merits and in accordance with law, taking into account the facts and circumstances of the case. The second respondent is further directed to dispose of the appeal, within two months from the date of receipt of a copy of this order.

12. Accordingly, 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
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14.02.2025



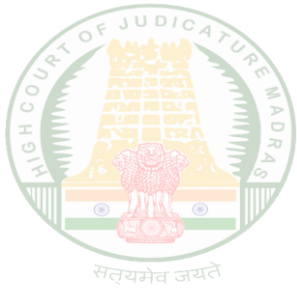
To:-

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VIVEK KUMAR SINGH, J.

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