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W.P.No.16031 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.16031 of 2025
& W.M.P.Nos.18136 & 18137 of 2025

Red Rose Garments
Represented by its Proprietor No 271 SNVS
Compound Kongu Main Road Tiruppur-641607

... Petitioner

Vs.

1. Deputy Commissioner (CT)
ERODE
2. Assistant Commissioner ST
Kongunagar Circle Tirupur-II

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the rejection of appeal in FORM GST APL - 02 bearing Reference No.ZD331224248916A dated 27.12.2024 issued by the 1st Respondent and quash the same and thereby direct the 1st Respondent to take the appeal filed by the Petitioner against order in Reference No. ZD330823180136G dated 31.08.2023 passed by the 2nd Respondent on record and dispose the appeal on merits



For Petitioner : Ms.R.Sri Visvapriya

For Respondent : Ms.K.Vasanthamala, GA

ORDER

This writ petition has been filed challenging the impugned rejection order dated 27.12.2024 passed by the 1st respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, all the notices were uploaded by the respondent in the GST common portal and the same remained unnoticed by the petitioner, due to which, they were unable to file their reply. Under these circumstances, the *ex parte* assessment order came to be passed and uploaded in the same portal. Being unaware of the said order, the petitioner was not in a position to file the appeal in time. Thereafter, the appeal against the



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aforesaid assessment order was preferred by the petitioner with a delay of 72 days. Since the said delay is beyond the condonable period, the appeal was rejected by the respondent, vide impugned rejection order dated 27.12.2024, on the aspect of limitation. Hence, this writ petition has been filed.

4. Further, he would submit that the petitioner had already paid 10% towards statutory pre-deposit while filing the appeal and now, he is willing to pay additional pre-deposit of 15% of disputed tax amount. Therefore, he requests this Court to condone the delay in filing the appeal.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that though all the notices and orders were duly uploaded by the respondents, the petitioner had failed to file the appeal in time. Hence, she would contend that the said delay has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.



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6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and also perused the materials available on record.

7. In the case on hand, the *ex parte* assessment order came to be passed on 31.08.2023. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 09.02.2024, i.e., with a delay of 72 days. Since the delay was beyond the condonable period, the said appeal was rejected by the respondent vide impugned order dated 27.12.2024. According to the petitioner, since the assessment order was passed in *ex parte*, they remained unaware of the said order and hence, they were unable to file the appeal within time.

7. The above reason assigned by the petitioner, for the delay in filing the appeal against the assessment order, appears to be genuine. In such view of the matter, this Court is inclined to condone the delay, in filing the appeal against the impugned assessment order, on terms.



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8. Therefore, though the petitioner had already paid 10% of the disputed tax amount as statutory pre-deposit while filing the appeal, considering the delay of 72 days, this Court directs the petitioner to pay additional 15% of the disputed tax amount to the respondents, as agreed by the petitioner. Accordingly, this Court passes the following order:-

(i) Accordingly, the rejection order dated 27.12.2024 passed by the 1st respondent is set aside and the delay of 72 days in filing the appeal before the 1st respondent is hereby condoned, subject to the payment of additional 15% of the disputed tax amount by the petitioner to the 1st respondent.

(ii) Upon payment of the said amount, the 1st respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, as expeditiously as possible.



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9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

02.06.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

1. Deputy Commissioner (CT)
ERODE

2. Assistant Commissioner ST
Kongunagar Circle Tirupur-II



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KRISHNAN RAMASAMY.J.,

nsa

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