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W.P.No.16902 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.16902 of 2025
& W.M.P.No.19177 of 2025

M/s.HITECH CNC ENGINEERING,
Sole Proprietorship,
Rep. by Amarnath Lakshmanan,
Plot No.59, Rajeswari Layout,
Begapalli, Hosur,
Krishnagiri - 635 126.

... Petitioner

Vs.

1.Deputy Commissioner (Commercial Tax) (FAC),
Goods and Service Tax (Appeal),
Appellate Authority,
17, Pitchards Road,
Hasthampatty,
Salem - 636 007.

2.The Commercial Tax Officer,
Hosur (North)-I,
Hosur - 635 109.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, to call for the



W.P.No.16902 of 2025

records of the impugned summary order dated 25.07.2023 in DRC-07 vide Ref.No.ZD330723105828C passed by the second respondent and the consequential dismissal of the impugned appeal order dated 04.11.2024 vide Ref.No.ZD331124004149X passed by the first respondent and quash the same as arbitrary, against the principles of natural justice and total inconformity with the provisions of the GST ACT, 2017 and consequently direct the first respondent to hear the appeal filed by the petitioner on merits.

For Petitioner : Ms.R.Reshma

For Respondents : Mrs.K.Vasanthamala,
Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned rejection order dated 04.11.2024 passed by the 1st respondent.

2. Mrs.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, the *ex parte* impugned summary order came to be passed by the 2nd



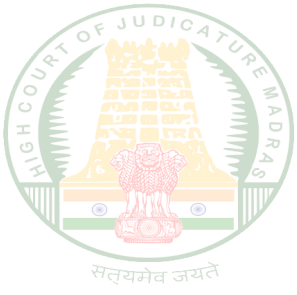
W.P.No.16902 of 2025

WEB COPY

respondent on 25.07.2023. Being unaware of the said summary order, the petitioner has failed to file their appeal within time. Thereafter, the appeal against the aforesaid summary order was preferred by the petitioner with a delay of 285 days. Since the said delay is beyond the condonable period, the appeal was rejected by the respondent, vide rejection order dated 04.11.2024, on the aspect of limitation. Hence, he prayed to condone the delay in filing the appeal on any terms including any condition of additional pre-deposit.

4. On the other hand, the learned Government Advocate appearing for the respondents would submit that the delay, in filing the appeal, has occurred only due to the fault on the part of the petitioner and requests this Court to pass appropriate orders.

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



W.P.No.16902 of 2025

WEB COPY

6. In the case on hand, the *ex parte* summary order came to be passed on 25.07.2023. Aggrieved over the same, an appeal was belatedly preferred by the petitioner on 04.09.2024, i.e., with a delay of 285 days. Since the delay was beyond the condonable period, the said appeal was rejected by the first respondent vide impugned order dated 04.11.2024. According to the petitioner, since the summary 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 summary 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 summary order, on terms.

8. Therefore, though the petitioner had already paid 10% of the disputed tax amount as pre-deposit while filing the appeal, considering the delay of 30 days, this Court directs the petitioner to pay additional 5% of the disputed tax amount, as agreed by the petitioner, to the



W.P.No.16902 of 2025

respondents. Accordingly, this Court passes the following order:

WEB COPY

i) The impugned order dated 04.11.2024 is set aside and the delay of 285 days in filing the appeal against the summary order is hereby condoned, subject to the payment of additional 5% of the disputed tax amount by the petitioner to the respondent-Department, within a period of four weeks from the date of receipt of a copy of this order.

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

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

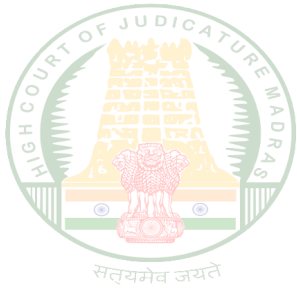
03.06.2025

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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WEB COPY



W.P.No.16902 of 2025

KRISHNAN RAMASAMY.J.,

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To

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