



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26049 of 2021

and

W.M.P.Nos.27491 & 27492 of 2021

(Through Video Conferencing)

M/s Sabari Impex.,
Represented by its Proprietrix,
No.5/192, K.G.Nagar,
PitchampalayamPudur West,
Sri Nagar, Tirupur - 641 603.

...Petitioner

Vs

1.The Appellate Deputy Commissioner (ST)
Coimbatore (Erode Camp)

2.The Assistant Commissioner (ST) (FAC),
Gandhi Nagar Circle, Tirupur.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in Na.Ka.634/2021/A and quash the order dated 07.10.2021 and further direct the first respondent to admit the appeal filed by the petitioner against the assessment order passed by the second respondent in TIN.33882390124/2015-2016 dated 21.02.2020 and hear the same on merits and pass orders in accordance with law in the light of the order dated 23.09.2021 passed by the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 in SMW(C) No.3/2020 IN RE COGNIZANCE FOR EXTENSION OF LIMITAION.

For Petitioner : Mr.P.Rajkumar

For Respondents: Mr.Richardson Wilson
Additional Government Pleader



ORDER

Mr. Richardson Wilson, learned Additional Government Pleader takes notice on behalf of the respondents.

2. The petitioner has challenged the impugned Assessment Order passed by the second respondent on 21.02.2020 before this Court in W.P.Nos.1439 & 1443 of 2021. The said writ petitions were disposed by an order dated 27.01.2021 by giving a grace period of four weeks from the date of receipt of the aforesaid order to file an appeal before the Appellate Commissioner. The petitioner has also filed an appeal on 24.02.2021 under a mistake in notion that the limitation would expire on 24.02.2021 though the limitation had already expired as per the aforesaid order of this Court on 23.02.2021.

3. The learned counsel for the petitioner submits that the Hon'ble Supreme Court while passing suo motu orders dated 23.03.2020, 08.03.2021 and vide order dated 23.09.2021 and extended the period of limitation. The learned counsel for the petitioner submits that under the last mentioned order the limitation has been further extended by the Hon'ble Supreme Court till 03.10.2021 in all these cases.

4. The learned counsel for the petitioner further submits that the Office of the first respondent has returned the appeal filed by the petitioner stating that the time limit prescribed by an order dated 27.01.2021 had expired and therefore the appeal was liable to be rejected in limine.

5. The learned Government Advocate for the respondents submits that the writ petition is not maintainable. The learned Government Advocate further submits that it is for the petitioner to approach the Court for extension of time instead of filing separate writ petition and therefore this writ petition is devoid of merits.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

7. Though there is substance in what the learned Government Advocate for the respondents submitted, nevertheless it is noticed that the limitation expired during the lock down period of Covid and limitation had been periodically extended by the Hon'ble Supreme Court vide orders dated 23.03.2020, 08.03.2021 and vide order dated 23.09.2021.



8. Considering the same, I am inclined to allow this writ petition by directing the Office of the first respondent to number the appeal filed by the petitioner on 24.02.2021 and list this case for final hearing before the first respondent to pass appropriate orders on merits and in accordance with law.

9. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar

arb/nst
To

1.The Appellate Deputy Commissioner (ST)
Coimbatore (Erode Camp)

2.The Assistant Commissioner (ST) (FAC),
Gandhi Nagar Circle, Tirupur.

+1 CC to The Special Government Pleader (T) Sr 65507

W.P.No.26049 of 2021
and
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RSI (CO)
SP(21/12/2021)