IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.2162 of 2022

M/s.Manamahil Mandram
Represented by Mr.P.Manikandan
Son of Pandiyathurai
No.1/155-B, 200 Ft.Road
Thoraipakkam, Chennai 600 097. …. Petitioner

-Vs-

1.The Joint Commissioner
Office of the Commissioner of GST &
Central Excise (Appeals-II), Newry Towers
2nd Floor, No.2054/I, II Avenue
12th Main Road, Anna Nagar
Chennai 600 040.

2.The Superintendent of Central Tax,
Range-II, Thuraipakkam Division
Chennai South Commissionerate. …. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the 1st respondent vide order in Appeal No.562/2021 dated 13.12.2021 and quash the same as illegal, incompetent and ultravires and consequently direct the 1st respondent authority to take on file the appeal preferred by the petitioner Society.

For Petitioner : Ms.G.Keerthana
for Mr.Purushothaman S.K.

For Respondents : Mr.M.Santhanakrishnan, Senior Standing Counsel

O R D E R

Challenging the order passed by the first respondent dated 13.12.2021 in Appeal No.562 of 2021, this writ petition has been filed. In fact the petitioner's registration was cancelled by the order of the original authority on 27.08.2019, as against which, if at all appeal to be filed before the appellate authority under the provisions of the Act, appeal should have been filed within three months period. The three months period ended on 26.11.2019. Thereafter, if the appeal is filed with a delay, the delay can be condoned for another one month ie., 30 days, beyond which even the appellate authority has no authority to condone the delay as restricted by the Statute.

2. In the present case, the petitioner has chosen to file an appeal only on 03.11.2021. In this regard, however the petitioner claims that, during the said period there was COVID-19 first wave and subsequently COVID-19 second wave, there was a huge delay in filing the appeal and in view of the orders passed in this regard extending the limitation period by the Hon'ble Supreme Court on 15.03.2020, which has been subsequently extended from time to time, the appeal can be entertained, she contended.

3. I have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

4. No doubt, because of the COVID-19 first wave since there was a complete lock down nationwide, the Hon'ble Supreme Court has come to the rescue by passing a suo motu order on 15.03.2020, whereby the period of limitation has been extended in all such cases before the judicial as well as quasi judicial and statutory authorities.

5. However in the present case, the order was passed by the original authority on 27.08.2019 and the three months period was over by 26.11.2019 and one month condonable period also was over on 26.12.2019. However, COVID-19 first wave commenced sometime in March 2020, for which the order extending the period of limitation was passed by the Hon'ble Supreme Court only on 15.03.2020. Therefore, at no stretch of imagination it can be stated that the limitation period is saved by the order passed by the Hon'ble Supreme Court.

6. In that view of the matter, this Court finds no plausible reason to entertain this writ petition, as admittedly the appeal filed by the petitioner was beyond the condonation period of one month after three months limitation period. Therefore, this Court is not inclined to entertain this writ petition to have a

successful challenge against the impugned order.

7. In that view of the matter, this writ petition fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

KST

To

1.The Joint Commissioner
Office of the Commissioner of GST &
Central Excise (Appeals-II), Newry Towers
2nd Floor, No.2054/I, II Avenue
12th Main Road, Anna Nagar
Chennai 600 040.

2.The Superintendent of Central Tax,
Range-II, Thuraipakkam Division
Chennai South Commissionerate.

+1cc to Mr.S.K. Purushothaman, Advocate SR.No.8828

W.P.No. 2162 of 2022

SSN(CO)
GMY(18/02/2022)