IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
and
THE HON'BLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

Writ Appeal No.963 of 2022

C. Loganathan .. Appellant/Petitioner

Versus

The Deputy Commissioner (ST)
O/o. The Deputy Commissioner (ST)
Inspection-II
No.1 Greams Road
Nungambakkam, Chennai - 600 006 .. Respondent/Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 01.12.2021 passed in W.P. No. 17519 of 2021 on the file of this Court.

Prayer in W.P. No. 17519 of 2021 : Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, to direct the respondent Deputy Commissioner (ST) to take the Petitioner's GST Appeal in offline mode bazed on the Petitioner's representation dated 11.03.2021 and Legal Notice dated 19.07.2021.

For Appellant : Mr. S. Muthu Venkataraman

For Respondent : Mr. C. Harsha Raj
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by R.MAHADEVAN,J.]

This Writ Appeal is filed by the appellant seeking to set aside the order dated 01.12.2021 passed in W.P. No. 17519 of 2021.

2. The appellant claims himself to be a poor car mechanic and he does not possess even a basic school education besides having challenged language skills. According to him, he did not have any taxable income for the periods from 2017-2018 to 2020-2021. However, as per the advise of his well wishers, he engaged a tax consultant to take care of his returns and accordingly, the said tax consultant filed 'nil' return on behalf of the

appellant. It is claimed by the appellant that during February 2020, exploiting his ignorance, his GST Registration was misused by some third parties by creating artificial sale transactions in the name of five companies. On coming to know about the misdeeds, a detailed complaint was given by the appellant. While so, to his shock and surprise, demand notices dated 09.12.2020 and 01.02.2021 were issued by the State Tax Officer, Grade II, Inspection II, Chennai – 6, calling upon the appellant to pay tax to the tune of Rs.1,47,27,932/- for the period from April 2019 to March 2020, including penalty. Subsequently, an order was passed by the respondent authorities on 09.02.2021 confirming the said demand. Thereafter, the appellant was issued with notice dated 24.06.2021 calling upon him to pay the tax along with penalty. Upon receipt of the same, he sent legal notice dated 19.07.2021, however, the same was not considered. Stating that due to ignorance of the legal consequences, he could not file the appeal against the order passed, he invoked the writ jurisdiction by filing W.P. No. 17519 of 2021 seeking to issue a direction to the respondent to take his appeal through off-line mode, based on his legal Notice dated 19.07.2021. However, the learned Judge, by order dated 01.12.2021, disposed of the writ petition in the following terms:

> "3.Since the petitioner has now received a copy of the aforesaid Assessment Order dated 09.02.2021 bearing reference Order in GST No.33AGGPC9974M1ZW/2019-2020, liberty is given to the petitioner to file an Appeal before the Appellate Commissioner in accordance with the relevant Rules within a period of thirty days from the date of receipt of a copy of this order. If such Appeal is filed by the petitioner within the aforesaid period, the Appellate Commissioner shall thereafter take up the Appeal and dispose the same within a period of three months in accordance with law and on merits. The respondent shall keep the recovery proceeding in abeyance till such time."

The aforesaid order passed by the learned Judge is under challenge in this writ appeal by the appellant.

3. The learned counsel for the appellant submitted that the order copy was received by the appellant on 28.01.2022, however, owing to the very high stakes involved in the case, which require the appellant to pay huge amount towards pre-deposit, the statutory appeal could not be filed by him, within the time limit specified by the learned Judge. The learned counsel further submitted that the Honourable Supreme Court, in order to mitigate the hardships faced by the litigants due to the on-set of Covid-19 Pandemic, passed an order dated 23.03.2021 in MA.No.21 of 2022 in MA.No.665 of 2021 in suo motu WP (C)No.3 of

2020 In Re: Cognizance for extension of Limitation, whereby the period of limitation in filing the petitions/ applications/ suits/ appeals / all other proceedings, irrespective of the period of limitation prescribed under the General or Special Laws, shall stand extended with effect from 15.03.2020 until further orders. The Hon'ble Supreme Court, in effect, extended the limitation period for filing of appeal in all cases, where the limitation expires during the period between 15.03.2020 till 28.02.2022 for 90 days from 01.03.2022. The above verdict is also applicable to the assessment order in question, as it falls within the period from 15.03.2020 till 28.02.2022. Therefore, the learned counsel prayed that the appellant may be permitted to file the statutory appeal against the assessment order passed by the respondent, within the prescribed time limit namely 90 days from 01.03.2022 to 28.05.2022.

4. On the above contentions, Heard Mr. C. Harsha Raj, learned Additional Government Pleader appearing for the respondent, who fairly agreed for the extension of time for filing appeal by the appellant, in the light of the order of the Hon'ble Supreme Court referred to above.

5. Considering the limited relief sought by the learned counsel for the appellant, which has also been agreed on the side of the respondent, this court grants time for filing the statutory appeal by the appellant, within 90 days from 01.03.2022.

6. The order of the learned Judge dated 01.12.2021 in WP.No.17519 of 2021 stands modified to the extent as indicated above. Accordingly, this writ appeal stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

msr/rsh
To

The Deputy Commissioner (ST)
O/o. The Deputy Commissioner (ST),
Inspection-II,No.1 Greams Road,
Nungambakkam, Chennai - 600 006.

+1cc to Mr.S. Muthu Venkataraman, Advocate SR.No.24824
+1cc to Government Pleader (Taxes)SR.No.24971

W.A. No.963 of 2022

NMI(CO)
GMY(01/06/2022)