IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. No.2395 of 2023 and
W.M.P. Nos.2482 and 2483 of 2023

M/s.AVTEC Ltd.,
represented by its Authorised Signatory
Gaurav Daga ... Petitioner

vs.

1.Deputy Commissioner of GST & Central Excise,
Hosur I Division,
Thally Road, Hosur – 635 109.

2.Assistant Commissioner of GST & Central Excise,
Salem Audit Circle,
No.1, Anai Road,
Foulkes Compound,
Salem 636 001.

3.Commissioner of GST & Central Excise,
Salem Commissionerate,
GST Bhawan No.1,
Foulkes Compound,
Ananimedu, Salem – 636 001. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to Order-in-Original No.01/2022-23 (GST) dated 17.06.2022 passed by the first respondent and quash the same.

For petitioner : Mr.Lakshmi Kumaran

For respondents : Mr.T.Ramesh Kutty,
Standing Counsel

ORDER

By consent of both the parties, this writ petition has been taken up for final disposal at the admission stage itself.

2.This writ petition has been filed challenging the Order-in-Original No.01/2022-23 (GST) dated 17.06.2022 passed by the first respondent.

3.The petitioner has challenged the order-in-original dated 17.06.2022 passed by the first respondent under the Central Goods and Service Tax Act, 2017.

4.Learned counsel for the petitioner, on instructions, would submit that the petitioner received the impugned order dated 17.06.2022 only on 23.11.2022. Therefore, according to the petitioner, a Statutory Appeal even if filed now, will be within the prescribed time limit as fixed under Section 107 of the Act.

5.Heard Mr.Lakshmi Kumaran, learned counsel for the petitioner and Mr.T.Ramesh Kutty, learned Standing Counsel, who accepts notice on behalf of the respondents.

6.Learned Standing Counsel appearing for the respondents would submit that the employee of the petitioner had received the impugned order-in-original dated 17.06.2022 in the month of June 2022 itself.

7.When a categorical assertion has been made by the petitioner that they have received the impugned order dated 17.06.2022 only on 23.11.2022 and they have also sworn to an affidavit to that effect and that too when the delay is not an inordinate one, no useful purpose will be served if the petitioner is not allowed to file a Statutory Appeal as against the impugned order dated 17.06.2022.

8.Accordingly, this writ petition is disposed of by directing the petitioner to file a Statutory Appeal before the competent appellate authority as against the impugned order dated 17.06.2022, within a period of four weeks from the date of receipt of a copy of this order. On presentation of the said Statutory Appeal within the stipulated time as

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fixed by this Court, the competent appellate authority shall entertain the same and decide the same, on merits and in accordance with law without reference to the limitation. Consequently, connected W.M.Ps stand closed. No costs.

02.02.2023

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To

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