



WEB COPY



W.P.Nos.17600 & 17604 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.06.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.17600 & 17604 of 2023
and WMP.Nos.16684, 16685, 16686 & 16687 of 2023

M/s. Sri Mutharamman Traders.,
Represented by its Proprietor
Mr.G.Thangaravi
1/713, Kulaikarai Street,
Medavakkam, Velachery,
Chennai - 600 100

... Petitioner in both W.P.'s

Vs

1.The State Tax Officer,
Madipakkam Assessment Circle,
No.233, Integrated Commercial Taxes and
Registration Building,
Nandanam, Chennai - 600 035.

2.The Deputy Commissioner (ST)
GST, Appeal Chennai - II
3rd Floor, C.T. Annex Building,
No.1, Grems Road,
Chennai - 600 006.

... Respondents in both W.P.'s

PRAYER in W.P.No.17600 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent in GSTIN:33ADRPT4714G1ZB/2020-2021 dated 31.10.2022 and quash the same as passed contrary to the provisions of the TNGST Act, 2017 and also without granting reasonable opportunity to the petitioner.



W.P.Nos.17600 & 17604 of 2023

PRAYER in W.P.No.17604 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent in GSTIN:33ADRPT4714G1ZB/2021-2022 dated 31.10.2022 and quash the same as passed contrary to the provisions of the TNGST Act, 2017 and also without granting reasonable opportunity to the petitioner.

In both W.P.'s

For Petitioner : Mr.P.Rajkumar

For Respondents : Ms.E.Ranganayaki

Additional Government Pleader

COMMON ORDER

The challenge is to two orders of assessment, both dated 31.10.2022 in respect of assessment years (AY) 2020-21 and 2021-22, passed under the provisions of the Tamil Nadu General Sales Tax Act, 2017 (in short 'Act').

2. Challenging the aforesaid orders, the petitioner has approached the first appellate authority by way of statutory appeals. The limitation for filing of such appeals is 90 days from date of receipt of the order and a further period of 30 days is granted within which time, the assessee concerned can seek condonation of delay.

3. In the present case, the appeals have, admittedly, been filed within 10 days after the statutory period of 120 days. In such circumstances, there is nothing untoward in the return of the appeals under Rc 344/2023/A1 dated



W.P.Nos.17600 & 17604 of 2023

26.04.2023 from the office of the Deputy Commissioner (ST), GST-Appeal, Chennai -II citing delay beyond the condonable period.

4. The explanation for delay set forth at paragraphs 9 and 10 of the affidavits filed in support of these Writ Petitions reads as follows:

9. I state that the petitioner was not aware of the uploading of the impugned order dated 31.10.2022 in the GSTIN portal as the petitioner did not receive any mail or message in their mail id about the uploading of the impugned order dated 31.10.2022 in the GSTIN portal. But only when the first respondent insisted that the petitioner has to pay the penalty amount in the first week of March 2023, the petitioner came to understand that the impugned order dated 31.10.2022 was already uploaded in the GSTIN portal. The reason for not knowing about the service of the impugned order in the GSTIN portal was that the petitioner engaged a sales tax consultant earlier who gave his mail id on behalf of the petitioner to receive any advance intimation from the department. However at a later point of time, the petitioner changed the sales tax consultant but did not realize that they should provide their email id for the future communication from the department. This resulted in not known about the uploading of the impugned order in the GSTIN portal.

10. I state that in the meantime, I was also not keeping well due to viral fever and so this also resulted in delay in taking immediate steps to challenge the impugned order before the second respondent.....'

5. Thus, an explanation has been given to the effect that the petitioner was unaware of the orders having been issued as it had been sent to the Consultant's email id and also to the effect that the sole proprietor was unwell at the relevant point in time.



W.P.Nos.17600 & 17604 of 2023

6. Ms.Ranganayaki, learned Additional Government Pleader, who accepts notice for the respondents fairly does not raise any strenuous objection to the suggestion of the Court that, having regard to the explanation tendered, the delay of 10 days may be condoned and the appeals restored to the file of the appellate authority.

7. Hence, while rejecting the challenge to the orders of assessment, I accede to the request for condonation of delay of 10 days. Let the petitioner re-present the appeal papers within a period of one (1) week from date of receipt of a copy of this order. If the appeal papers are so re-presented as aforesaid, the appellate authority shall entertain the same holding them be maintainable, hear the appeals and dispose the same in accordance with law.

8. These Writ Petitions are disposed as above. No costs. Connected Miscellaneous Petitions are closed.

14.06.2023

Index : Yes / No

Speaking/non-speaking Order

Neutral citation:Yes/No

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Note: Registry is directed to issue this order on or before 16.06.2023.



W.P.Nos.17600 & 17604 of 2023

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To

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Dr.ANITA SUMANTH,J.

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