



W.P.No.18890 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.06.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.18890 of 2023
and WMP.Nos.18132 and 18133 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, Greaves Road,
Chennai - 600 006.

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

PRAYER: 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/2019-2020 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.



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For Petitioner : Mr.C.Sivasubramanian
For Respondents : Mrs.K.Vasanthamala
Government Advocate

ORDER

Mrs.K.Vasanthamala, learned Government Advocate accepts notice for the respondents and is armed with instructions to enable a final disposal of this Writ Petition even at the stage of admission.

2. An identical issue, in respect of the very same assessee, arises for consideration in W.P.Nos.17600 and 17604 of 2023, wherein the challenge was for the assessment years 2020-21 and 2021-22.

3. The challenge in the present case is to an order of assessment dated 31.10.2022 passed under the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 for the assessment year 2019-2020.

4. Though the aforesaid Writ Petitions have been filed on identical premise as the present one, in that statutory appeals filed by the petitioner had been rejected as belated, and rightly so, seeing as they had been filed 10 days beyond the statutorily permissible condonable period of 120 days.

5. The relevant portion of order dated 14.06.2023 passed in the aforesaid Writ Petitions is as follows:

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 26.04.2023 from the office of the Deputy



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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.

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



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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.

6. In light of the identity in facts and circumstances, the aforesaid order is taken to be passed in this Writ Petition as well including the directions. 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.

7. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petitions are closed.

27.06.2023

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 30.06.2023.



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To

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Dr.ANITA SUMANTH,J.

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