



W.P.Nos.25828 & 25830 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.25828 and 25830 of 2023

and

W.M.P.Nos.25342, 25343, 25279 & 25280 of 2023

M/s.Agile Enterprises,
Represented by its Proprietor Shri S.Srinivasan
58/53, Doss Nagar 2nd Street,
Kannikapuram,
Perambur Barracks Road,
Chennai – 600 012.

... Petitioner in both W.Ps.

Vs.

The Deputy State Tax Officer – 1,
Purasaivakkam Assessment Circle,
F-50 1st Floor, 1st Avenue,
Anna Nagar East,
Chennai – 600 102.

... Respondent in both W.Ps.

Prayer in W.P.No.25828 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorari, to call for the records relating to the impugned order in Proc.No.GSTIN 33BJBPS3806B2Z0/2021-22 dated 20.01.2023 passed



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by the respondent and quash the same since the same is passed in violation of provisions of the CGST/TNGST Act and rules, principles of natural justice.

Prayer in W.P.No.25830 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorari, to call for the records relating to the impugned order in Proc.No.GSTIN 33BJBPS3806B2Z0/2021-22 dated 16.12.2022 passed by the respondent and quash the same since the same is passed in violation of provisions of the CGST/TNGST Act and rules, principles of natural justice.

For Petitioner : Mr.G.Natarajan
(in both W.Ps)

For Respondent : Mr.C.Harsharaj
(in both W.Ps) Additional Government Pleader

COMMON ORDER

By this common order, both these writ petitions are disposed of.

2. Mr.C.Harsharaj, learned Additional Government Pleader takes notice on behalf of the respondent.



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3.The Court is inclined to dispose these writ petitions at the time of admission after hearing the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

4. The petitioner is aggrieved by the impugned orders dated 16.12.2022 and 20.01.2023. Both these orders are appealable before the Deputy Commissioner (GST Appeals) under Section 107 of the respective GST enactment.

5. The petitioner has failed to file Statutory Appeal within the stipulated time. The reasons given in the affidavit is that the petitioner's brother was hospitalized. Therefore, against both the impugned orders dated 16.12.2022 and 20.01.2023, which were posted/uploaded in the GST portal on 20.01.2023, appeals were not filed within the stipulated time under Section 107 of the respective GST enactment.



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6. Even if the petitioner files appeals before the Deputy Commissioner (GST Appeals) beyond the condonable period, the Deputy Commissioner (GST Appeals) will be bound to dismiss the Appeal on the ground of limitation.

7. The reasons given by the petitioner for approaching this Court appears to be reasonable and considering the fact that the issue also involves several disputed question of fact which will can be best decided by the Authorities under the provisions of the GST Act, 2017. Liberty is given to the petitioner to file a Statutory Appeal within a period of thirty days from the date of receipt of a copy of this order. The petitioner shall make necessary pre-deposit of the disputed tax as confirmed vide impugned orders dated 16.12.2022 and 20.01.2023 along with the Appeal.

8. If such appeal is filed before the office of the Deputy Commissioner (GST Appeals) under Section 107 of the GST Act, 2017 within the period specified above, the Deputy Commissioner (GST



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Appeal) shall consider and dispose the appeal on merits without reference to the limitation.

9. These writ petitions stand disposed of. No costs.

Consequently, connected writ miscellaneous petitions are closed.

04.09.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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To

The Deputy State Tax Officer – 1,
Purasaivakkam Assessment Circle,
F-50 1st Floor, 1st Avenue,
Anna Nagar East,
Chennai – 600 102.



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C.SARAVANAN, J.

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