IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.30571 of 2022
and
W.M.P.No.29994 of 2022

Sri Vinayaga Jewellers
rep. by its Proprietor,
Mr.S.Manickam,
No.74/1A, Salem Main Road,
Kallakurichi - 606 202. ...Petitioner

Vs.

1.The Appellate Deputy Commissioner (ST),
Cuddalore,
Commercial Taxes Building,
No.43, Sub Jai Road,
Manjakuppam,
Cuddalore - 607 001.

2.State Tax Officer,
Kallakurichi Assessment Circle,
No.27/2, Raja Nagar,
Gandhi Nagar,
Kallakurichi - 606 202. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the impugned proceedings of the 1st respondent passed in A.T.M.N. K.A1/ 805/ 2022 dated 20.10.2022 of the 1st respondent and quash the same and further direct the 1st respondent to admit the appeal without insisting for the delay in re-submission of the appeal.

For Petitioner	:	Mr.N.Murali
For Respondents	:	Mr.Amirtha Dinakaran, Government Advocate

ORDER

This Writ Petition is filed to set aside the order passed by the 1st respondent dismissing the petition to condone the delay of 136 days in representing the appeal.

2.The learned counsel appearing for the petitioner would submit that initially there was a delay of 136 days and thereafter, the appeal papers were returned due to mismatch of TIN number of the petitioner. He would submit that in the assessment proceedings, the said impugned order which was under challenge before the Appellate Authority that the TIN number was mentioned as 33744784801/2012-2013, whereas according to the petitioner, the said TIN number was wrongly mentioned in the order. The petitioner's correct TIN number is 33374784801. The said number was correctly mentioned while filing the delay petition. Since the correct TIN number was mismatched the said appeal papers came to be returned. Further, one of the reasons for the delay was that the Certificate regarding payment of pre-deposit of tax to be issued by the State Tax Officer was delayed. In order to prove the correctness of the TIN furnished by the petitioner before the Appellate Authority and to obtain Certificate from the office of the Sales Tax Officer, Kallakurichi on 06.09.2022, there was a delay of 136 days.

3.The learned counsel for the respondents would submit that the delay was 136 days and not 134 days because after receipt of the Certificate, the proprietor of the Jewellery fell ill and therefore, he was not in a position to prefer the appeal. However, the appeal papers were not returned within the prescribed period. He would submit that if the appeal is represented after the expiry of ten days the Appellate Authority may admit such petition, if represented within a further period of ten days with sufficient cause on the part of the appellant. He would submit that the petitioner had represented the appeal papers with a delay of 134 days. He would submit that unexplained delay without sufficient cause in approaching the Court after the expiry of the statutory appeal period ought to be viewed seriously and hence, this petition is liable to be dismissed.

4.Taking into consideration the submissions made by the petitioner that the Certificate regarding payment of pre-deposit of tax to be issued by the State Tax Officer was delayed and the reason assigned in the affidavit filed in support of this petition appears to be just and reasonable and the delay is required to be condoned.

In the result, this Writ Petition is disposed of. The order passed by the Appellate Authority rejecting the order is set aside and this Court directs the 1st respondent to take appeal on record and deal with the same in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

05.10.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
mps

To

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KRISHNAN RAMASAMY, J.

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