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W.P.No.34742 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

**W.P.No.34742 of 2023 &
WMP.No.34709 of 2023**

M/s. Cholaa Tapes
represented by its Partner
Mrs. Muthukumar Nandhini,
15, Mullai Nagar,
Kasipalayam Road,
Nallur, Tiruppur

... Petitioner

Vs.

1. The Additional Commissioner (Appeals),
Office of the Commissioner of GST &
Central Excise (Appeals), Coimbatore,
6/7, A.T.D Street,
Race Course Road,
Coimbatore 641 018.
 2. The Deputy Commissioner of GST &
Central Excise, Tiruppur Division,
2nd Floor, 51, Elementary School Street,
Kumar Nagar, Tiruppur 641 603
- Respondents

...

PRAYER: Writ Petition filed under Article 226 of the Constitution of India



W.P.No.34742 of 2023

praying for issuance of Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in Appeal No.145/2022-GST(CBE) in DIN : 20230959KV000066556E (Order in Appeal No.54/2023-GST), dated 15.09.2023 and quash the same and further direct the first respondent to decide the appeal filed by the petitioner on merits and in accordance with law.

For Petitioner : Mr. P. Rajkumar

For Respondents : Mr. T. Ramesh Kutty,
Senior Panel Counsel

ORDER

This Writ Petition is filed challenging the order passed by the first respondent dated 15.09.2023, dismissing the appeal filed by the petitioner on the grounds of limitation and for a further direction to the first respondent to decide the appeal filed by the petitioner on merits and in accordance with law.

2. The case of the petitioner is that by the order impugned, the first respondent has rejected the appeal filed by the petitioner citing the reason



W.P.No.34742 of 2023

that there was a delay of 11 days in filing the appeal.

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3. The learned counsel for the petitioner submitted that the first respondent has dismissed the appeal filed by the petitioner for the reason that there was a delay of 11 days in filing the appeal, by overlooking the fact that the order dated 24.6.2022 which was challenged by the petitioner in the appeal was not uploaded in the GST portal on the very same date when it was passed, but only on 12.09.2022, the summary of the order in Form GST DRC-07 was uploaded which enabled the petitioner to file appeal through online on 03.11.2022. However, the first respondent dismissed the appeal as time barred in a mechanical manner and therefore the learned counsel prayed for a further direction to the first respondent to take up the appeal on file and decide the same on merits and in accordance with law.

4. The learned Senior Panel Counsel appearing for the respondents submitted that Amnesty Scheme is available with effect from 2.11.2023, wherein, in the event, if the appellate authority rejected the appeal on the



W.P.No.34742 of 2023

ground of limitation, those assesseees, aggrieved over such rejection, are entitled to avail the benefit available in terms of paragraph 1 of the said scheme. Therefore, he submitted that the petitioner can very well enjoy the benefit available under the said scheme.

5. In reply, the learned counsel appearing for the petitioner submitted that liberty may be granted to the petitioner to avail such scheme.

6. Heard the submissions made by the learned counsel for the petitioner as well as respondent.

7. On perusal of Amnesty Scheme introduced by the respondent, it appears that in the event, if any appeal is rejected by the respondent on the aspect of limitation, still the assesseees are entitled for availing Amnesty Scheme. Therefore, the petitioner is directed to avail the Amnesty Scheme, in which case, the respondent shall consider the same and pass orders in accordance with the scheme and law



W.P.No.34742 of 2023

WEB COPY

8. With the above direction, this writ petition is disposed of. No costs.

Consequently, the connected miscellaneous petition is closed.

15.12.2023

msr

Index:Yes/No

Internet:Yes/No

Note: Issue copy on 19.12.2023

To

1. The Additional Commissioner (Appeals),
Office of the Commissioner of GST &
Central Excise (Appeals), Coimbatore,
6/7, A.T.D Street,
Race Course Road,
Coimbatore 641 018.
2. The Deputy Commissioner of GST &
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2nd Floor, 51, Elementary School Street,
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KRISHNAN RAMASAMY, J.



WEB COPY



W.P.No.34742 of 2023

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**W.P.No.34742 of 2023 &
WMP.No.34709 of 2023**

15.12.2023

6 of 6