BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)Nos. 21835 to 21837 of 2023
and
W.M.P.(MD).Nos.18233, 18226 & 18224 of 2023

W.P.(MD)No. 21835 of 2023

Tvl. Murugan Enterprises,
Represented by its Proprietor J.Murugan,
No.1 j/9, Briyant Nagar, 6th Street,
Chidambara Nagar,
Thoothukudi – 628 008. ... Petitioner

vs.

1.The Appellate Deputy Commissioner (ST),
GST Appeals,
Tirunelveli.

2.The State Tax officer,
Ettayapuram,
Tuticorin District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 2nd respondent in GSTIN:

33ALBPM4430A1ZW/2018-19 dated 06.04.2023 and quash the same as illegal and without conducting any proper enquiry and also by grossly violating the principles of natural justice and direct to re-do the assessment after providing me an opportunity of personal hearing.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

W.P.(MD)No. 21836 of 2023

Tvl. Murugan Enterprises,
Represented by its Proprietor J.Murugan,
No.1 j/9, Briyant Nagar, 6th Street,
Chidambara Nagar,
Thoothukudi – 628 008. ... Petitioner

vs.

1.The Appellate Deputy Commissioner (ST),
GST Appeals,
Tirunelveli.

2.The State Tax officer,
Ettayapuram,
Tuticorin District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 2nd respondent in GSTIN: 33ALBPM4430A1ZW/2019-20 dated 06.04.2023 and quash the same as illegal and without conducting any proper enquiry and also by grossly violating the principles of natural justice and direct to re-do the assessment after providing me an opportunity of personal hearing.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

W.P.(MD)No. 21837 of 2023

Tvl. Murugan Enterprises,
Represented by its Proprietor J.Murugan,
No.1 j/9, Briyant Nagar, 6th Street,
Chidambara Nagar,
Thoothukudi – 628 008. ... Petitioner

vs.

1.The Appellate Deputy Commissioner (ST),
GST Appeals,
Tirunelveli.

2.The State Tax officer,
Ettayapuram,
Tuticorin District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 2nd respondent in GSTIN: 33ALBPM4430A1ZW/2020-21 dated 06.04.2023 and quash the same as illegal and without conducting any proper enquiry and also by grossly violating the principles of natural justice and direct to re-do the assessment after providing me an opportunity of personal hearing.

For Petitioner : Mr.K.Srinivasan

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

COMMON O R D E R

These Writ petitions are filed for Writ of Certiorarified Mandamus, to quash the impugned order passed by the 2nd respondent, dated 06.04.2023.

2. The contention of the petitioner is that against the said impugned order, the petitioner ought to have preferred an appeal to the appellate authority and the time prescribed is 90 days. Subsequently, another grace time is granted under the provisions is 30 days. Within 120 days, the petitioner could not file appeal before the appellate authority.

3. The further contention of the petitioner is that during this period the petitioner was admitted in the hospital for kidney failure and he was under treatment. Therefore, he could not prefer appeal within the prescribed time limit. Hence, the petitioner is before this Court. The petitioner has circulated the certificate issued by the Doctor who had treated the petitioner. Hence the petitioner is praying to permit the petitioner to prefer an appeal without insisting on limitation period.

4. The learned Additional Government Pleader appearing for the respondents submitted that the provisions prescribe only 120 days to file appeal and the petitioner ought to prefer an appeal within prescribed time limit. If the petitioner has not preferred an appeal within time, then the respondents are not empowered to condone the delay. Hence, the respondents prayed to dismiss the writ petition.

5. After hearing the rival submissions and after perusing the certificate issued by the Doctor, this Court is of the considered opinion that the petitioner ought to grant an opportunity to file an appeal. Therefore, the petitioner is directed to file an appeal within a period of four weeks (4) from the date of

receipt of a copy of this order. The respondents without insisting on limitation shall number the appeal and hear the case on merits. The said exercise shall be completed within a period of four months (4) from the date of preference of appeal.

6. With these observations and directions, these Writ petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

08.09.2023

Index : Yes / No
Internet : Yes
NCC : Yes / No

Sml/Tmg

To

1.The Appellate Deputy Commissioner (ST),
GST Appeals,
Tirunelveli.

2.The State Tax officer,
Ettayapuram,
Tuticorin District.

S.SRIMATHY, J

Sml/Tmg

W.P.(MD)Nos. 21835 to 21837 of 2023

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