IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.3424 of 2022
and
W.M.P.Nos.3534 and 3536 of 2022

Sree Visalam Industries,
Represented by its Proprietor V.Lakshmanan,
Plot No.47 Part 76-A, 76 Part
SIPCOT Phase – II,
Hosur, Krishnagiri District – 635 109. ... Petitioner

Vs

1.The State Tax Officer,
Data Unit, Intelligence,
Salem.

2.The Deputy Commissioner (ST) (Int),
Commercial Taxes Building,
2nd Floor, Pitchants Road,
Hasthampatty,
Salem – 636 007. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the 1st respondent in connection with the order dated 09.08.2019 bearing reference No.GST-INS reg.Sl.No.1/2019-20 in Form GST Asmt-13 for the tax period April 2018 to March 2019 and quash the same.

For Petitioner : Mr.M.D.Thirunavukkarasu

For Respondents : Mr.C.Harsharaj
Additional Government Pleader

ORDER

The petitioner is before this Court challenging the impugned order passed under Section 62 of the TNGST Act, 2017. By the impugned order, the respondents have confirmed the demand based on the best judgements.

2. The learned counsel for the respondents have filed the counter affidavit, wherein, it is stated that the petitioner has filed return for April 2018 on 10.09.2019 and for the month of May 2018 to May 2019 on 18.12.2019. It is submitted that since the petitioner did not pay the interest due under Section 50 of the CGST Act and TNGST Act, 2017 for the delay in filing of Form GSTR 3B returns related to the above periods.

3. It is submitted that returns were filed belatedly without interest payable under Section 50 of the respective GST enactments. Hence, prays for dismissal of the present writ petition.

4. Section 62(2) of the GST Act has been since amended after filing of the present writ petition. Vide Finance Act, 2023 Sub-Section 2 has been amended to read as follows:-

> *Section 62(2) stipulates that where the registered person furnishes a valid return within 60 days of the service of the assessment order under Sub-Section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under Sub-Section (1) of Section 50 or for payment of late fee under Section 47 shall continue:*
>
> *Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under Sub-Section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of Section or to pay late fee under Section 47 shall continue.*

5. In this case, admittedly returns have been filed by the petitioner beyond statutory period prescribed under Section 62(2) even as per the amended proviso. Therefore, there is no merits in the present writ petition.

6. Accordingly, this writ petition is dismissed. However, liberty is given to the petitioner to file a Statutory Appeal before the Appellate Authority namely the Deputy Commissioner (ST)(Int)/2nd respondent within a period of 30 days from the date of receipt of a copy of this order. If such an appeal is filed, it shall be entertained and disposed on merits on its turn without reference to the limitation. No costs. Consequently, connected writ miscellaneous petitions are closed.

14.08.2024

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

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Data Unit, Intelligence,
Salem.

2.The Deputy Commissioner (ST) (Int),
Commercial Taxes Building,
2nd Floor, Pitchants Road,
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C.SARAVANAN, J.

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