IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 12.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2801 of 2024
and W.M.P.Nos.3062, 3063 & 3064of 2024

Sumathi Fabrics,
A Proprietorship Concern
Represented by its Proprietor
Mrs.C.Sumathi,
No.242/13-4, Salem Road,
T.Kailasampalayam,
Thiruchengode - 637 211. ... Petitioner

-vs-

1.The State Tax Officer
Tiruchengove (Town) Circle,
Sengunthar Arakkattalai Building,
100/13, Salem Main Road,
Tiruchengode - 637 301.

2.The Appellate Deputy Commissioner (ST)(GST)
Salem and Erode Commercial Taxes Building,
Pitchards Road Salem.

3.The Branch Manager
Karur Vysya Bank Sankari Main Road,
Tiruchengode. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for records from the file of first respondent in impugned assessment order dated 30.06.2023 and impugned Summary order in Form DRC-07 dated 03.07.2023 and consequential rejection order by rejecting the appeal in Appeal No. and Year Roc No.1610/2023 dated 18.12.2023 passed by the second respondent, and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.B.Sivaraman

For Respondents 1, 2 : Mr.Prasanth Kiran, GA (T)

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ORDER

The petitioner challenges both an assessment order dated 30.06.2023 and the subsequent appellate order dated 18.12.2023 rejecting the appeal on the ground of limitation.

2. The petitioner states that she carries on trade in textiles. As a registered person under GST law, she filed periodic returns. Pursuant to a show cause notice dated 29.05.2023, the impugned assessment order came to be issued. The petitioner carried the matter in appeal. Since there was a delay in presenting the appeal, which exceeded the period for which such delay could be condoned by the appellate authority, the appeal was rejected at the threshold. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner contends that the petitioner has a very good case on merits because the assessment order was issued without application of mind. In this connection, he refers to internal page four of the assessment order and points out that the observations made therein are patently incorrect. He also submits that 10% of the disputed tax amount was remitted by the petitioner while presenting the appeal.

4. Mr.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondents 1 and 2. He submits that the petitioner should be directed to remit 12.5% of the disputed tax demand because such percentage is prescribed under the applicable amnesty scheme.

5. The assessment order was communicated to the petitioner on 03.07.2023. Therefore, the statutory appeal should have been filed on or before 03.10.2023. The appellate authority has the power to extend time by a further period of one month, and such period expired on 03.11.2023. The admitted position is that the petitioner has remitted 10% of the disputed tax demand. The petitioner has also provided an explanation for the delay and has also stated that great prejudice would be caused if the matter is not adjudicated on merits.

6. By taking into account the fact that 10% of the disputed tax

amount was remitted and the period of delay is only about 20 days, this writ petition is disposed of by directing the appellate authority to receive and dispose of the petitioner's appeal on merits.

7. Since the petitioner has remitted 10% of the disputed tax demand, the notice issued to the Karur Vysya Bank on 22.11.2023 and all proceedings pursuant thereto shall remain stayed pending disposal of the appeal.

8. W.P.No.2801 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.3062, 3063 and 3064 of 2024 are closed.

12.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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