IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.3285 of 2024

M/s.Ashpra Interiors Pvt. Limited,
Represented by its Managing Director,
Mr.Pradeep Selvarajan,
R-120, TNHB Scheme Phase-II,
Ayappakkam, Tiruvallur,
Chennai-600 077. ... Petitioner

-vs-

1.The Commissioner of GST & Central Excise,
Chennai Outer Commissionerate,
Newry Tower, 2nd floor,
No.2054/1, II Avenue,
12th Main Road, Anna Nagar,
Chennai-600 040.

2.Additional Commissioner (Appeals II),
Office of the Commissioner of GST &
Central Excise (Appeal II),
Newry Tower, 2nd floor,
No.2054/1, II Avenue,
12th Main Road, Anna Nagar,
Chennai-600 040.

3.Superintendent,
Maduravoyal Range,
Poonamallee Division,
41, Trunk Road, Rukumani Nagar,
Karayanchavadi,
Poonamallee, Chennai-600 056. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the impugned Order-In-Appeal No.187/2023 (GSTA-II) (JC) dated 27.09.2023 passed by the 2nd respondent together with order for cancellation of registration in Reference No.ZA3304230218015 dated 06.04.2023 passed by the 3rd respondent together with order in Reference No.ZA330723253709B dated 28.07.2023 of the 1st respondent and quash the same as arbitrary, illegal and further direct the respondent to revoke the cancellation of petitioner's GSTIN Registration No.33AAKCA8999B1ZD within such reasonable time as may be directed by this Court.

For Petitioner : Mr.R.Anishkumar
For Respondents : Mr.Sai Srujan Tayi
Senior Standing Counsel

ORDER

The petitioner assails an order of the 2nd respondent by which the appeal filed by the petitioner against order dated 06.04.2023 was rejected on the ground that such appeal was filed belatedly.

2. The petitioner is a registered person under GST laws. He received a show cause notice dated 02.02.2023 threatening cancellation of his GSTIN registration for non filing of returns. In response thereto, he filed his returns. Therefore, by order dated 02.03.2023, the suspension of registration was revoked. However, on 06.04.2023, a fresh order of cancellation came to be issued. This was assailed in appellate proceedings culminating in the order impugned herein.

3. Learned counsel for the petitioner points out that returns were filed upon receipt of the show cause notice dated 02.02.2023. Consequently, he submits that the order dated 06.04.2023 is unsustainable. In any event, he also points out that the said order reflects that the petitioner has no tax dues. He also points out that the appeal was rejected solely on the ground of limitation.

4. Mr.Sai Srujan Tayi, learned senior standing counsel, accepts notice on behalf of the respondents. He submits that the order impugned in appellate proceedings was issued on 06.04.2023. Consequently, he points

out that the appeal should have been filed on or before 05.08.2023, whereas such appeal was filed on 01.09.2023.

5. The petitioner has placed on record the order dated 02.03.2023, which indicates that the petitioner filed pending tax returns. The said order also indicates that the suspension of registration was revoked with effect from 02.03.2023. The subsequent order dated 06.04.2023 was issued on the basis that the petitioner failed to file GSTR-3B returns for a continuous period of six months. The said order also discloses that there are no tax dues as on the date of issuance thereof. In these circumstances, it appears *prima facie* that the petitioner has a good case on merits.

6. The impugned appellate order sets out the relevant dates. If the appeal had been filed on or before 05.08.2023, the appellate authority had power to condone delay under Section 107 of the GST Act. The appeal was filed on 01.09.2023 and the delay is less than 30 days. In the over all facts and circumstances, it is an appropriate case to direct the appellate authority to receive and dispose of the appeal on merits.

7. For reasons set out above, the order impugned herein is quashed and the matter is remanded to the appellate authority. The appellate authority is directed to receive and dispose of the appeal on merits within a maximum period of one month after providing a reasonable opportunity to the petitioner.

8. The writ petition is disposed of on the above terms. There will be no order as to costs.

14.02.2024

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

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SENTHILKUMAR RAMAMOORTHY,J.

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To

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