IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.6607 of 2024
and W.M.P.No.7331 of 2024

M/s.MDV Construction,
Represented by its Partner
Venugopal Arunkumar
No.6 172 MDV Thottam
Sakthi Nagar, Masinaickenpatti
Salem 636 103. ... Petitioner

-vs-

1.Appellate Deputy Commissioner ST GST
Salem and Erode
Commercial Taxes Building
Pitchards Road, Salem 636 007.

2.Assistant Commissioner ST
Ayyothyapattinam Assessment Circle
Commercial Taxes Building,
Pitchards Road, Salem 636 007. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the impugned proceeding of the first respondent passed in ROC No.1222/2023/A2 dated 04.09.2023 and quash the same and further direct the first respondent to admit and re-hear the appeal after granting opportunity of personal hearing and issue any other writ.

For Petitioner	:	Mr.S.Ramamoorthy for Mr.N.Murali
For Respondents	:	Mr.T.N.C.Kaushik, AGP (T)

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ORDER

An appellate order dated 04.09.2023 rejecting the petitioner's appeal against the cancellation of GST registration is under challenge. The petitioner was a registered person under applicable GST enactments and the GST registration was cancelled by order dated 17.10.2022. After such cancellation, the petitioner filed GST returns up to the date of cancellation and also remitted all tax dues, including interest and late fee dues.

2. Learned counsel for the petitioner submits that the petitioner is a contractor who provided services to the State Government. Since payments were not received for a considerable period of time, he submits that the petitioner was not in a position to pay taxes and file returns. Thereafter, he points out that the petitioner was unable to participate in tenders relating to contracts on account of the cancellation of the GST registration. In that situation, the petitioner filed the returns up to the date of cancellation and also paid outstanding tax dues along with interest.

3. In the order issued on 15.02.2024 in W.P.No.3423 of 2024, in substantially similar circumstances, I directed the appellate authority to consider the appeal on merits. In this case, the appeal was filed on 19.07.2023 with a delay of about 152 days. In the overall facts and

circumstances, especially by taking note of the fact that the petitioner filed returns up to the date of cancellation and remitted taxes along with interest thereon, this is an appropriate case to direct the appellate authority to receive and dispose of the appeal on merits.

4. For reasons set out above, the appellate order impugned herein is quashed and the matter is remanded for re-consideration. The appellate authority is directed to receive and dispose of the appeal on merits within a period of ***sixty days*** from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner.

5. W.P.No.6607 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7331 of 2024 is closed.

14.03.2024

rna
Index : Yes / No
Internet : Yes / No

Neutral Citation: Yes / No

To

1.Appellate Deputy Commissioner ST GST
Salem and Erode
Commercial Taxes Building
Pitchards Road, Salem 636 007.

2.Assistant Commissioner ST
Ayyothyapattinam Assessment Circle
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Pitchards Road, Salem 636 007.

SENTHILKUMAR RAMAMOORTHY,J

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