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W.P.Nos.6825, 6828 & 6829 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.6825, 6828 & 6829 of 2024 and
W.M.P.Nos.7612, 7613, 7620, 7623, 7619 & 7621 of 2024

In all WPs.

Tvl.SKL Exports,
Represented by its Partner,
SF No.396/2E,
295/1C, Mahavishnu Nagar,
Angeripalayam Road,
Angeripalayam, Tiruppur-641 603.

...Petitioner

Vs.

1.Deputy Commissioner (ST)(GST)(Appeal),
Erode and Salem,
131, Brough Road,
Commercial Taxes Building,
Erode-638 001.

2.State Tax Officer (FAC),
Tiruppur North 2 Assessment Circle.

... Respondents

Prayer in W.P.No.6825 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in ROC No.437/2024/A1 dated 29.02.2024 passed by the 1st respondent and quash the same and thereby direct the 1st respondent to take the appeal filed by the petitioner



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against order in Ref.No.ZD330923251803D/2017-2018 dated 30.09.2023 passed by the 2nd respondent on record and dispose the appeal on merits.

Prayer in W.P.No.6828 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in ROC No.440/2024/A1 dated 29.02.2024 passed by the 1st respondent and quash the same and thereby direct the 1st respondent to take the appeal filed by the petitioner against order in Ref.No.ZD3310230046251/2020-2021 dated 03.10.2023 passed by the 2nd respondent on record and dispose the appeal on merits.

Prayer in W.P.No.6829 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order in ROC No.438/2024/A1 dated 29.02.2024 passed by the 1st respondent and quash the same and thereby direct the 1st respondent to take the appeal filed by the petitioner against order in Ref.No.ZD330923254270L/2018-2019 dated 30.09.2023 passed by the 2nd respondent on record and dispose the appeal on merits.

In all WPs.

For Petitioner : Mr.T.Ramesh

For Respondents : Mr.V.Prashanth Kiran, Govt. Adv. (T)

COMMON ORDER



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By these three writ petitions, the petitioner challenges appellate orders declining to receive appeals filed by the petitioner as being barred by limitation.

2. Assessment orders were issued against the petitioner either on 30.09.2023 or 03.10.2023. In respect thereof, the petitioner filed rectification petitions. Such rectification petitions were rejected on 29.01.2024. Thereafter, the petitioner presented appeals before the appellate authority. Such appeals were rejected as being beyond the period of limitation prescribed in Section 107 of applicable GST enactments.

3. Learned counsel for the petitioner submitted that rectification petitions were filed within the prescribed period of limitation and that such rectification petitions were rejected on 29.01.2024. By pointing out that appeals were filed soon after the rectification petitions were rejected, he submits that the petitioner requested the appellate authority to condone the delay. He also points out that a sum of Rs.1,26,02,698.80 was appropriated from the bank account of the petitioner in the Axis Bank towards the demand confirmed in the assessment orders.



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4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He submits that the appellate authority was constrained to reject the appeals since such appeals were presented beyond the period prescribed in Section 107 of applicable GST enactments.

5. The impugned appellate orders indicate that appeals were filed about 21 to 24 days beyond the period for which appeal could be condoned by the appellate authority. The petitioner has explained the reasons for such delay by pointing out that rectification petitions were filed and that appeals were filed shortly after such rectification petitions were rejected. The petitioner has remitted 10% of the disputed tax demand and, in addition, a sum of Rs.1,26,02,698.80 was appropriated from the bank account of the petitioner towards the tax demand. In these circumstances, I am of the view that these are appropriate cases in which the appellate authority should be directed to receive and dispose of the appeals on merits.

6. For reasons set out above, the impugned appellate orders are



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quashed and the appellate authority is directed to receive and dispose of the appeals presented by the petitioner on merits without going into the question of limitation. Since a sum of Rs.1,26,02,698.80 was appropriated pursuant to the bank attachment, the said bank attachment shall stand raised. It is also open to the petitioner to file an appropriate application before the appellate authority with regard to the refund of the sum appropriated from the petitioner's bank account.

6. These writ petitions are disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.03.2024

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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