IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

C.M.A. No.765 of 2024

Geetharani Krishna
Prop. M/s. G.K. Enterprises
139/85, GNT Road
Chennai 600 110 ... Appellant

v

The Commissioner of GST & Central Excise
Chennai North GST Commissionerate
26/1 Uthamar Gandhi Salai
Nungambakkam
Chennai 600 034 ... Respondent

Civil Miscellaneous Appeal filed under Section 35-G of the Central Excise Act, 1944, challenging the Misc. Order No.40006/2024 dated 16.01.2024 in Defective Appeal Diary No.412962023 of the Customs, Excise and Service Tax Appellate Tribunal, Chennai.

For appellant Mr. N. Viswanathan

For respondent Mr. Mohana Murali
Senior Panel Counsel

JUDGMENT

(delivered by R. MAHADEVAN, J.)

This civil miscellaneous appeal has been filed challenging the miscellaneous order dated 16.01.2024 in Defective Appeal Diary No.412962023 on the file of the Customs, Excise and Service Tax Appellate Tribunal at Chennai raising the question of law as to whether the impugned order passed by the Appellate Tribunal dismissing the appellant's appeal for non-payment of the pre-deposit in the facts and circumstances of her case, is in accordance with the provisions contained in Section 35-F of the Central Excise Act read with Section 74 of the Finance Act, 1994.

2 Today, when the matter was taken up for hearing, the learned counsel on either side made some submissions and as agreed to by both sides, this Court permits the appellant to prefer an appeal before the Appellate Authority within a period of four weeks from the date of receipt of a copy of this judgment. Upon such filing of an appeal by the appellant by complying with the statutory requirements, the Appellate Authority shall entertain the same without raising any issue on the limitation aspect and decide the appeal purely on merits, of course, after affording an opportunity of hearing to the appellant. It is further directed that the Appellate Authority, after entertaining

the appeal, shall first pass appropriate orders on the stay application and thereafter, proceed with the appeal.

With the above directions, this civil miscellaneous appeal stands disposed of. No costs.

[R.M.D, J.] **[M.S.Q, J.]**
03.04.2024

cad

To

1 The Commissioner of GST & Central Excise
Chennai North GST Commissionerate
26/1 Uthamar Gandhi Salai
Nungambakkam
Chennai 600 034

2 The Customs, Excise and Service Tax Appellate Tribunal
Chennai

R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

cad

C.M.A. No.765 of 2024

03.04.2024