IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. No. 7531 of 2024

&

W.M.P. Nos. 8448 & 8449 of 2024

Tvl. SKL Exports
rep. 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: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the records relating to the Order in ROC No. 439/2024/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 dated 21.02.2024 against order in Ref. No. ZD330923254902A/2019-20 dated 30.09.2023 passed by the 2nd respondent on record and dispose the appeal on merits.

For Petitioner :: Mr.T. Ramesh

For Respondents :: Mr.V. Prashanth Kiran
Govt. Advocate (Tax)

O R D E R

In this writ petition, the petitioner challenges the appellate order declining to receive the appeal filed by the petitioner as being barred by limitation.

2. An assessment order was issued against the petitioner on 30.09.2023. In respect thereof, the petitioner filed a rectification petition. Such rectification petition was rejected on 29.01.2024. Thereafter, the petitioner presented an appeal before the appellate authority. Such appeal was rejected as being beyond the period of limitation prescribed in Section 107 of applicable GST enactments.

3. Learned counsel for the petitioner submitted that the rectification petition was filed within the prescribed period of limitation and that such rectification petition was rejected on 29.01.2024. By pointing out that the appeal was filed soon after the rectification petition was 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 order.

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

5. The impugned appellate order indicates that the appeal was filed about 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 the rectification petition was filed and that the appeal was filed shortly after such rectification petition was 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 this is an appropriate case in which the appellate authority should be directed to receive and dispose of the appeal on merits.

6. For reasons set out above, the impugned appellate order is quashed and the appellate authority is directed to receive and dispose of the appeal 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.

7. The writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.03.2024

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

SENTHILKUMAR RAMAMOORTHY,J

nv

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