IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.8205 of 2024
&
W.M.P.No.9154 of 2024

Tvl.Sri Gokul Stores
Rep. by its Proprietor
Ramanujam Narayanan
No.20, St. Thomas Street,
Santhosh Nagar,
Kandanchavadi,
Chennai-600 096. ... Petitioner

-vs-

1. The Deputy Commissioner (ST)
   GST-Appeal, Chennai II
   3rd Floor, C.T. Annex Building
   No.1, Greams Road
   Chennai-600 006.

2. The State Tax Officer,
   Sholinganallur Assessment Circle
   South- III, Chennai South
   Chennai-600 035. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in and connected with order in Rc.348/2024/A1 dated 05.03.2024, quash the same and direct the said authority to consider the appeal/cause of the petitioner entity afresh after affording sufficient and reasonable opportunity in such proceedings.

For Petitioner : Mr.B.Satishsundar

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader (Taxes)

ORDER

An appellate order rejecting the petitioner's appeal on the ground of limitation is challenged in this writ petition.

2. Pursuant to proceedings relating to the availment of ITC by the petitioner, an order dated 09.09.2023 was issued. Such order was challenged by filing an appeal online on 31.01.2024 by remitting the requisite pre deposit of 10% of the disputed tax demand. Since such appeal was rejected, the present writ petition was filed.

3. Learned counsel for the petitioner referred to the GSTR 3B return of the petitioner for October in the assessment period 2019-2020 and submitted that the petitioner inadvertently committed an error by entering the eligible ITC details under Sl.No.3 pertaining to inward supplies liable to

reverse charge instead of Sl.No.5, which deals with all other ITC. He contends that the entire tax liability has arisen on account of this inadvertent error. In this connection, he also refers to the corresponding GSTR 2A return.

4. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondents. He points out that the challenge in the writ petition is not directed at the assessment order, but only the appellate order.

5. The petitioner has placed on record evidence that an online appeal was filed on 31.01.2024 after remitting the requisite pre-deposit. The assessment order was issued on 09.09.2023 and the period of limitation, without condonation, expired in early December 2023. The 30 day period for condonation would have expired in early January 2024 and the appeal was filed shortly thereafter. In the overall facts and circumstances, this is an appropriate case to direct the appellate authority to receive and dispose of the appeal on merits.

6. Therefore, W.P.No.8205 of 2025 is disposed of by directing the appellate authority to receive and dispose of the appeal on merits subject to being satisfied that the 10% pre deposit was received. The impugned order is set aside for such purpose. Consequently, connected miscellaneous petition is closed. No costs.

27.03.2024

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

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SENTHILKUMAR RAMAMOORTHY J.

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