IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.08.2024
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.9675 of 2024
and
W.M.P.No.10704 of 2024

Tvl. AIMIL Pharmaceuticals India Ltd.,
rep. by its Authorized Representative,
Gopalakrishnan Suresh,
Plot No.50, Godown, No.39, Royal Mutha Nagar,
Madhavaram Village, Chennai- 600 060. ...Petitioner

Vs.

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

2. The Assistant Commissioner (FAC)
Madhavaram Assessment Circle,
No.32, Integrated Commercial Taxes Office,
Complex, Elephant Gate Bridge Road,
Chennai – 600 003. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the first respondent in Rc.No. Spl. Reg No.14/ 2023 /A2 dated 27/02/2024 and quash the same and condone the delay of 26 days delay in filing appeal beyond statutory period and direct the first respondent to admit the appeal.

For Petitioner : Mr.B.Syed Abdul Wakeel
For Respondent s : Mr.T.N.C. Kaushik
Additional Government Pleader

Order

Heard Mr.B.Syed Abdul Wakeel, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader for respondent, who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 27.02.2024 passed by the first respondent, whereby, the Appeal Petition filed by the petitioner was not entertained and returned.

3. The learned counsel appearing for the petitioner would submit that the second respondent has uploaded the pre-assessment notice and all other subsequent communications only through the online portal; that since the petitioner is a Ayurvedic Pharma Dealer, and he is not well accustomed with the new procedure adopted under the new GST Act, the petitioner failed to note those notices and also could not submit reply to the notices, however, the second respondent, passed the assessment order; that aggrieved against the said assessment order, the petitioner ought to have preferred an Appeal within 120 days, however, the petitioner filed the same with a delay of 26 days, i.e. on 17.02.2024, the reason for the delay is due to considerable ambiguity in the procedure to be adopted under the new enactment, therefore, the delay is neither willful nor wanton, but, the first respondent, refused to condone the delay and entertain the Appeal and vide the impugned order dated 27.02.2024, returned the Appeal. Challenging the same, the present Writ Petition is filed.

4. The learned Additional Government Pleader for respondent fairly submitted that the delay may be condoned and suitable orders may be passed with regard to the disposal of the Appeal.

5. Taking into consideration of the submissions made on either side and the reasons assigned for delay appears to be genuine, this Court is inclined to dispose of the Writ Petition with the following conditions:-

i) The Delay in filing the Appeal is condoned.

ii) The first respondent is directed to take up the Appeal on file and dispose the same in accordance with law.

6. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

16.08.2024

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Index : yes/no

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Krishnan Ramasamy,J.,

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