



WEB COPY



W.P.No.11234 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.11234 of 2024
and W.M.P.Nos.12326 & 12327 of 2024

M/s.Sri Shanmuga Motors,
Represented by its Proprietor
Mr.Nanjappan Shanmugam,
6/1/88/1, Tharamangalam Main Road,
Jalakandapuram, Mettur Taluk,
Salem, Tamil Nadu-636 501.

... Petitioner

-VS-

1.The State Tax Officer,
Edappady Assessment Circle,
Velandivalasu,
Edappady, Salem, Tamil Nadu.

2. The Deputy Commissioner (ST)(GST)(Appeals),
Erode and Salem,
Integrated Commercial Taxes Building,
Room No.233, II Floor, No.17,
Pitchards Road, Salem-7.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order dated 09.09.2023 with the reference 33BSPSPS6163J1Z7/2021-2022 on the files of the 1st respondent and quash the same.



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For Petitioner : Mr.Saitanya Kesan

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

ORDER

An order in original was issued against the petitioner on 09.09.2023. Such order was carried in appeal before the 2nd respondent. Such appeal was filed on 30.01.2024. On the ground that the appeal was presented beyond the condonable period, the appeal was rejected. This writ petition is directed against the original order dated 09.09.2023.

2. Although the writ petition is directed against the order in original, learned counsel for the petitioner submits that the petitioner would prosecute the appeal, if the appellate authority is directed to receive and dispose of the same on merits.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondents. He points out that the appeal was rejected because such appeal was presented beyond the condonable period prescribed in sub-section 4 of Section 107 of applicable GST enactments.



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4. On perusal of the appellate order, it is evident that the delay beyond the condonable period is only 21 days. The petitioner has stated in the affidavit that the tax proposal was confirmed under Section 74 of applicable GST enactments in spite of the fact that the ingredients of Section 74 are not satisfied. By taking this aspect into account and by noticing that the period of delay beyond the condonable period is only 21 days, this writ petition is disposed of by setting aside the appellate order dated 30.03.2024 and consequently directing the 2nd respondent to receive and dispose of the appeal filed by the petitioner on merits without going into the question of limitation. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

29.04.2024

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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Edappady, Salem,
Tamil Nadu.

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