IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10873 of 2024
and W.M.P.No.11975 of 2024

A.Kumaraguru ...Petitioner

Vs.

The Commissioner of GST & Central Excise
(Appeals-I),
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. .. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent in relation to the Order-in-Appeal No.86 /2024 (CTA-I) dated 28.02.2024 and the same was signed on 29.02.2024, on the file of the Respondent and quashing of the same as it is in gross violation of principles of natural justice, judicial discipline, is arbitrary, perverse and violate of Articles 14 and 19 (1) (g) of the Constitution and consequently directing the respondent to consider the appeal on merits.

For Petitioner : Ms.P.Jayalakshmi

For Respondent : Mr.Sai Srujan Tayi, Sr. Standing Counsel

ORDER

An appellate order dated 28.02.2024 rejecting the petitioner's appeal as being time barred is challenged in this writ petition.

2. By order dated 01.06.2023, W.P.No.28388 of 2022 was dismissed by permitting the petitioner to present a statutory appeal within four weeks. The petitioner presented the appeal on 03.07.2023. Since such appeal was rejected, the present writ petition was filed.

3. Learned counsel for the petitioner referred to the order of this Court in W.P.No.28388 of 2022 and pointed out that such order permitted the petitioner to file an appeal within a period of four weeks. If such time limit is computed from the date of receipt of the order, she submits that the appeal was within time. By referring to the impugned appellate order, she points out that the appeal was rejected because it was filed on 03.07.2023 instead of 29.06.2023.

4. Mr.Sai Srujan Tayi, learned senior standing counsel, accepts

notice for the respondent. He points out that the appeal was rejected because the four week period expired on 29.06.2023.

5. On perusal of the order of this Court in W.P.No.28388 of 2022, it appears that the petitioner was permitted to file the statutory appeal within a period of four weeks. The order does not specify whether the four week period would run from the date of the order or from the date of receipt thereof. The order also does not state that time would run from the date of uploading the web copy. Ordinarily, in such circumstances, limitation should be computed from the date of receipt of the order. In this case, the appeal was presented on 03.07.2023. In these facts and circumstances, the interest of justice warrants that the appeal be considered and disposed of on merits.

6. Therefore, the impugned order dated 28.02.2024 is set aside and the petitioner is permitted to re-present the appeal before the appellate authority. If such appeal is re-presented within ten days from the date of receipt of a copy of this order, the appellate authority is directed to receive and dispose of the same on merits.

7. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petition is closed.

25.04.2024

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

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To

The Commissioner of GST & Central Excise
(Appeals-I),
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

SENTHILKUMAR RAMAMOORTHY,J.

Kj

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