IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16389 of 2024
and
W.M.P.No.17950 of 2024

M/s. KM Wedding Events Management Pvt. Ltd.,
Rep. by its Managing Director,
V. Vijaya Bhaskar. ... Petitioner

Versus

The Deputy Commissioner (ST),
GST Appeal Chennai-II,
3rd Floor, C.T., Annexe Building No.1,
Greams Road, Chennai -6. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorarified Mandamus, to call for the records of impugned order dated 06.12.2023 bearing reference Rc.1188/2023/A2 of the Respondent and quash the same and further direct the Respondent to take up the appeal filed by the petitioner on 21.11.2023 against the order dated 30.06.2023 bearing reference GSTIN:33AACCK3763B1ZZ/2018-19 (July – March) for further proceedings & disposal on merit.

For Petitioner : Mr. R. Anish Kumar

For Respondent : Mrs. K. Vasanthamala,
Government Advocate (Tax)

ORDER

Against the order dated 30.06.2023 of the State Tax officer for assessment year 2018-19, the petitioner filed an appeal before the appellate authority on 21.11.2023. According to the petitioner, such appeal was filed within the four month period within which delay could be condoned if reckoned from the date of receipt of the order on 22.07.2023. In view of the rejection of such appeal on the ground of limitation, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner's GST registration was cancelled. Consequently, he submits that the petitioner was unable to access the GST portal. The order in original was communicated to the petitioner by e-mail on 22.07.2023 and, if computed from the said date, learned counsel submits that the appeal should not have been rejected on the ground of limitation.

3. Mrs. K. Vasanthamala, learned Government Advocate, accepts

notice for the respondent. She submits that the petitioner continued to carry on business even after the cancellation of the GST registration and that proceedings have been initiated against the petitioner in that regard. She also submits that the appellate authority rejected the appeal because it was filed beyond the condonable period as per Section 107 of applicable GST statutes.

4. The admitted facts are that the order in original was issued on 30.06.2023 and the appeal was lodged on 21.11.2023. The petitioner asserts that he did not have access to the portal on account of the cancellation of GST registration and that a copy of the order was received on 22.07.2023 by e-mail. Even if the assertion of the petitioner is not accepted, the period of delay beyond the condonable period is only about 20 days. By taking note of the facts and circumstances outlined above, this is an appropriate case to direct the appellate authority to receive and dispose of the appeal on merits.

5. Therefore, W.P.No.16389 of 2024 is disposed of by directing the

appellate authority to receive and dispose of the appeal on merits, without going into the question of limitation, provided such appeal is re-presented by the petitioner within 10 days from the date of receipt of a copy of this order.

05.07.2024

Index : No
Speaking Order : Yes
Neutral Case Citation:No

klt

To

The Deputy Commissioner (ST),
GST Appeal Chennai-II,
3rd Floor, C.T., Annexe Building No.1,
Greams Road, Chennai -6.

SENTHILKUMAR RAMAMOORTHY,J.

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