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W.P.No.16143 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.16143 of 2024
and W.M.P.No.17686 of 2024

M/s.Sunbeam Generators Pvt. Ltd.,
(Represented by its General Manager-Finance, Mr.V.Vivekanandhan)
R.S.No.24/1, 2, 3A-3D,
Canal Road, Koodapakkam,
Puducherry - 605 502. ... Petitioner

-VS-

1.The Additional Commissioner (Appeals-I),
Office of the Commissioner of GST & Central Excise (Appeals-I),
26/1, Mahatma Gandhi Marg,
Nungambakkam, Chennai - 600 034.

2.The Assistant Commissioner of GST & Central Excise II Division,
2nd Floor, No.14, Municipal Street,
Aziz Nagar, Reddiarpalayam,
Puducherry - 605 010. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for records relating to impugned Order-in-Appeal No.07/2024 (GSTA-I)



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(ADC) dated 24.01.2024 passed by the first respondent and quash the same and direct the first respondent to pass fresh orders on merits.

For Petitioner : Mr.G.Natarajan

For Respondents : Mr.Sai Srujan Tayi, Sr. SC

ORDER

In this writ petition, an appellate order dated 24.01.2024 is assailed. The petitioner had applied for refund under Section 54 of applicable GST enactments. Such application was rejected by order dated 13.04.2022. The petitioner carried the matter in appeal before the appellate authority by presenting such appeal online on 28.06.2022. The time limit for filing such appeal was up to 12.07.2022. On account of the hard copy of the appeal being submitted on 23.05.2023, the appeal was rejected.

2. Learned counsel for the petitioner referred to the facts set out



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above and submitted that interference with the impugned order is warranted in as much as the appeals were filed within time.

3. Mr.Sai Srujan Tayi, learned senior standing counsel, accepts notice for the respondents. He submits that the date of issuance of provisional acknowledgment shall be considered as the date of filing of the appeal only if the order appealed against was uploaded on the common portal.

4. The petitioner has placed on record evidence that the appeal was filed in Form GST APL-01 through the online mode on the GST portal on 28.06.2022. Such filing was in accordance with Rule 108(1) of the Central Goods and Services Tax Rules, 2017 (the GST Rules) and within the prescribed period of limitation.

5. Sub-rule(3) of Rule 108 of the Central Goods and Services Tax Rules, 2017 is pertinent for the adjudication of this writ petition.



The said sub-rule is extracted below:

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“(3) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgement shall be considered as the date of filing of appeal:

Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgement, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

Provided further that where the said self-certified copy of the decision or order is not submitted



within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.

Explanation. - For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgment, indicating the appeal number, is issued."

6. The above sub-rule indicates clearly that the requirement of filing a self-certified copy of the order appealed against becomes applicable, as per the first proviso thereto, only where the order appealed against is not uploaded on the common portal. In the case at hand, the order was duly uploaded on the common portal. In such event, the date of online filing is the date of filing of the appeal. Even otherwise, the filing of a hard copy is a purely procedural requirement. Consequently, the impugned order is not sustainable.

7. Therefore, impugned order dated 24.01.2024 is set aside and



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the appellate authority is directed to receive and dispose of the appeal on merits.

8. W.P.No.16143 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.17686 of 2024 is closed.

02.07.2024
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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

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