IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20206 of 2024
and
W.M.P.Nos.22115 & 22116 of 2024

Leela Gold and Diamonds,
Represented by its Partner,
Suresh Kumar Ankeeth,
Ground Floor, Shop No.11,
Guru Rajendra Plaza,
Mint Street, Sowcarpet,
Chennai, Tamil Nadu 600 079.

... Petitioner

Vs.

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

2.The State Tax Officer,
NSC Bose Road Assessment Circle,
Station No.32, Integrated Commercial
Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai, Tamil Nadu 600 003.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to order in Ref.No.ZD331023098358C dated 17.10.2023 passed by the 2nd respondent and Order in RC.No.1262/2024 in memorandum dated 04.04.2024 passed by the 1st respondent and to quash the above orders and to direct the 1st respondent to accept the statutory appeal filed under Tamil Nadu GST Act, 2017 dated 26.03.2024 against demand order of the 2nd respondent in Order No.ZD331023098358C dated 17.10.2023 without reference to limitation and to further direct the respondents to refund the recovered amount of Rs.1,67,557/- in favour of the petitioner with applicable interest.

For Petitioner : Ms.Y.Kavitha

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned orders dated 17.10.2023 and 04.04.2023 passed by the respondents.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that the show cause notice dated 15.09.2023 was uploaded by the respondent in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the exparte impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Aggrieved over the said impugned order, the petitioner has preferred an appeal with a delay of 24 days. However, the Appellate Authority rejected the appeal due to the said delay of 24 days. Hence, this petition has been filed.

4. On the other hand, the learned Government Advocate would submit that the respondent has uploaded the notices in the GST Online

Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to condone the delay and pass appropriate order to the respondent for disposal of the appeal filed by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

6. In the present case, it appears that the petitioner was unaware of the impugned order passed by the respondent, due to which, there was a delay of 24 days in filing the appeal. Therefore, this Court, being satisfied with the reasons assigned by the petitioner, is inclined to condone the delay. Accordingly, this Court passes the following order:-

(i) The delay of 24 days in filing the appeal before the Appellate Authority is hereby condonned.

(ii) The Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

09.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa
To

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<u>KRISHNAN RAMASAMY.J.,</u>

nsa

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