



WEB COPY



W.P.No.17983 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17983 of 2024
and
W.M.P.Nos. 19726 & 19727 of 2024

Tvl Kapil Electricals,
Rep.by its Proprietor,
Bheruchand Mangilal Jain.

... Petitioner

Versus

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

2.The Deputy State Tax Officer – I,
Mannady Assessment Circle, Chennai North Division,
Integrated Commercial Taxes Offices Building,
No.32, Elephant Gate Bride Road,
Chennai – 3.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India pleased to issue a Writ of Certiorari, to call for the records records of the order passed by the 1st respondent in Rc.No.689/2024 dated 07.03.2024 and the order passed by the 2nd Respondent in Reference No. ZD3309231385368 dated 21.09.2023 and quash the same and



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consequently direct the respondents to give an opportunity of personal hearing and pass such or other orders as may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr. P. Suresh Babu

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

ORDER

Both an order in original dated 25.09.2023 and appellate order dated 7.03.2024 are challenged in this writ petition.

2. Upon receipt of the show cause notice dated 23.06.2023, the petitioner replied thereto on 01.07.2023. On considering such reply, the impugned order in original was issued. The petitioner carried the matter in appeal before the appellate authority. Such appeal was rejected on the ground that it was barred by limitation.

3. Learned counsel for the petitioner submits that the petitioner stated in reply dated 01.07.2023 that tax dues in respect of all 4 heads of claim were duly discharged. Solely on account of non-submission of all



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necessary documents, he submits that the tax proposals were confirmed.

He also submits that the appeal was rejected entirely on the ground of limitation.

4. Mrs. K. Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that principles of natural justice were complied with before issuing the order in original. As regards the appeal, she submits that the appeal was rejected because it was presented belatedly.

5. The order in original is dated 21.09.2023. The period of limitation, including the condonable period, expired on 19.01.2024. The petitioner presented the statutory appeal on 28.02.2023. In those circumstances, the appellate authority cannot be faulted for rejecting the statutory appeal. Nonetheless, from the reply of the petitioner and the averments in the affidavit, it appears *prima facie* that the petitioner may have discharged tax dues in respect of the 4 defects dealt with in the order in original. The length of delay is just over a month. When these facts and circumstances are considered cumulatively, it is just and appropriate that



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the petitioner's appeal be considered and disposed of on merits.

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6. For reasons aforesaid, the impugned appellate order dated 07.03.2024 is set aside and the appellate authority is directed to receive and dispose of the petitioner's appeal on merits, without going into the question of limitation, provided such appeal is re-presented within 10 days from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

25.07.2024

Index : No

Speaking Order : Yes

Neutral Case Citation: No

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