IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.19937 of 2024**
**and**
**W.M.P.Nos.21814 & 21815 of 2024**

Tvl.SIDDHI IMPEX,
Represented by its Karta Mr.Hemanth Thanmal,
No.32, Krishnappa Tank Street,
Kondithope,
Chenna, Tamil Nadu-600079. ... Petitioner

**Vs.**

1.The State Tax Officer,
Vallalar Nagar Assessment Circle,
Room No.223, II Floor, Integrated Building for
Commercial Taxes,
No.32, Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

2. THE DEPUTY COMMISSIONER (ST),
GST-Appeal, Chennai- I,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road, Chennai-600006. ... Respondents

**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 pertaining to the impugned order dated 21.09.2023 with reference ZD330923143734B/2018-19 on the file of the First Respondent, quash the same, and direct the First Respondent to pass orders.

For Petitioner : Mr.S.Ramamurthy
For Respondents : Mr.C.Haroha Raj,
Additional Government Pleader (Taxes)

**ORDER**

This writ petition has been filed challenging the impugned order dated 21.09.2023 passed by the 1st respondent and to direct the 1st respondent to pass orders afresh.

2. Mr.C.Haroha Raj, learned Additional Government Pleader, 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 31.05.2023 was issued by the 1st respondent,

for which the Petitioner submitted his reply dated 31.05.2023, but the 1st Respondent without considering the same has passed the impugned order dated 21.09.2023. Being aggrieved over the same, the Petitioner filed a Appeal before the 2nd Respondent on 27.01.2024, which was rejected by the 2nd Respondent vide order dated 01.04.2024, on the ground that there was a delay of four days in filing the Appeal and the 2nd Respondent has no power to condone the same.

4. Though the impugned assessment order dated 21.09.2023, was under challenge in this Writ Petition, the learned counsel for the Petitioner requested this court to condone the delay in filing the Appeal before the 2nd Respondent and the said authority may be directed to take the Appeal on file and pass appropriate orders.

5. The learned Additional Government Pleader (Taxes) appearing for the respondents has stated no objection to condone the delay and requested this Court to pass appropriate order to the respondents for disposal of the appeal filed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondents and also perused the materials available on record.

7. In the present case, it appears the Petitioner filed an Appeal before the 2nd Respondent with a delay of four days and the same was rejected on the ground of delay. Considering the fact that the delay is only of four days and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to condone the delay of four days in filing the Appeal before the 2nd Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the rejection order dated 01.04.2024 passed by the 2nd respondent is set aside and the delay of 4 days in filing the appeal before the 2nd respondent is condoned.
>
> (ii) The 2nd respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing sufficient

opportunity to the petitioner, as expeditiously as possible.

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

**08.08.2024**

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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**KRISHNAN RAMASAMY.J.,**

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To

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