IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18558 of 2024 and
W.M.P.No.20346 of 2024

Tvl. U.R.Powder Coating,
Represented by its Partner Mr.Mohammed Younus,
No.192, Bharathiyar Road,
Ganapathy, Coimbatore. ...Petitioner

Vs.

Deputy Commissioner (ST),
GST Appeal,
Commercial Taxes Building,
Coimbatore-641 018. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of Impugned Order dated 08.04.2024 bearing reference No.MP/GST/1048/2024 of the Respondent and quash the same and further direct the Respondent to take up the appeal filed by the Petitioner on 21.03.2024 against the Order of the State Tax Officer, Saravanampatti West Assessment Circle, Coimbatore, passed in Form GST DRC-07, Order No. ZD331123187072S/2017-18 order dated 29.11.2023 for further proceedings and disposal on merits.

For Petitioner : Mr.R.Anish Kumar

For Respondent : Mr.G.Nanmaran, Special Govt. Pleader

ORDER

An appellate order dated 08.04.2024 rejecting the petitioner's appeal on the ground that an application to condone delay was not filed along with such appeal is challenged herein. An order in original was issued ex parte on 29.11.2023. The tax proposal was confirmed because the tax payer failed to reply to the show cause notice. Such order was carried in appeal by the petitioner on 21.03.2024. Although the appeal was lodged within the condonable period, the appeal was rejected because it was not accompanied by an application to condone delay.

2. Learned counsel for the petitioner submits that the petitioner should not be left without remedy especially when the petitioner had approached the appellate authority within the condonable period.

3. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He points out that the appellate authority was constrained to reject the appeal because it was not accompanied by an application to condone delay.

4. On examining the order in original, it is clear that such order was

issued without hearing the petitioner on account of the petitioner's failure to reply to the show cause notice. In effect, there has been no adjudication on merits till date. These facts and circumstances justify the consideration and disposal of the petitioner's appeal on merits.

5. For reasons aforesaid, impugned order dated 08.04.2024 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 ten (10) days from the date of receipt of a copy of this order.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petition is closed.

02.08.2024

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

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SENTHILKUMAR RAMAMOORTHY,J.

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To

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