IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.Nos.19652, 19659, 19665 and 19673 of 2024
WMP.Nos.21509, 21510, 21518, 21519, 21526,
21528, 21536 and 21537 of 2024

N/s.Kapil Electricals, by its Proprietor
Bheruchand Mangilal Jain, Chennai-1 Petitioner-All WPs

Vs

1. The Deputy Commissioner (ST), GST – Appeal
Chennai-I, Chennai-6

2. The Deputy State Tax Officer-I, Mannady Assessment Circle
Chennai North Division, Chennai-3 Respondents-All WPs

Prayer:- These Writ Petitions are filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the orders dated 07.03.2024 passed by the 1st Respondent in RC.Nos.685, 686, 687 and 688 of 2024 and the orders passed by the 2nd Respondent dated 15.09.2023 in Ref.Nos.ZD330923097329X, dated 19.09.2023 in Ref.No.ZD3309231095892, dated 20.09.2023 in Ref.No.ZD3309231253831 and dated 21.09.2023 in Ref.No.ZD3309231369180 respectively and to quash the same and consequently to direct the Respondents to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mrs.K.Vasanthamala, Government Advocate

ORDER

1. These Writ Petitions are filed for issuance of Writ of Certiorarified Mandamus

to call for the records relating to the orders dated 07.03.2024 passed by the 1st Respondent in RC.Nos.685, 686, 687 and 688 of 2024 and the orders passed by the 2nd Respondent dated 15.09.2023 in Ref.Nos. ZD330923097329X, dated 19.09.2023 in Ref.No.ZD3309231095892, dated 20.09.2023 in Ref.No.ZD3309231253831 and dated 21.09.2023 in Ref.No.ZD3309231369180, respectively and to quash the same and consequently to direct the Respondents to give an opportunity of personal hearing.

2. The case of the Petitioner is that the Petitioner is carrying on the business of sales of electrical goods. The 2nd Respondent issued show cause notices dated 31.05.2023 for the alleged differences in the returns filed for the assessment years 2017-18, 2018-19, 2019-20 and 2010-21. The Petitioner sent a reply dated 01.07.2023 in respect of each assessment years. Thereafter, the impugned demand orders dated, 15.09.2023, 19.09.2023, 20.09.2023 and 21.09.2023 came to be issued through GST Online Portal. Hence, the Petitioner was not aware of the impugned demand orders in time. However, the Petitioner filed appeals before the 1st Respondent by enclosing all necessary documents with a delay of more than a month. The appeals were rejected by the 1st Respondent by the impugned orders dated 07.03.2024 only on the ground of delay. Hence, these Writ Petitions have been filed, seeking the reliefs as stated above.

3. This Court heard the learned counsel on either side and also perused material records placed before this Court.

4. The learned counsel for the Petitioner would submit that the impugned demand orders came to be issued through GST Online Portal and hence, the Petitioner was not aware of the impugned demand orders in time, however, the Petitioner filed appeals before the 1st Respondent by enclosing all necessary documents with a delay of more than a month, which occurred due to the medical condition of the Proprietor of the Petitioner Firm. The learned counsel would further submit that the appeals were rejected only on the ground of delay and not on merits, though the Petitioner filed relevant documents, stating sufficient reasons for the alleged discrepancies in the returns and hence, the impugned orders of the 1st Respondent are in violation of principles of natural justice and hence, the learned counsel for the Petitioner seeks an opportunity to contest the tax demand on merits, by setting aside the impugned orders.

5. The learned Government Advocate for the Respondents would submit that if this Court is inclined to condone the delay, appropriate orders may be passed.

6. Upon examining the impugned orders, it is evident that admittedly the impugned demand orders were published through the GST Online Portal and hence, the Petitioner could not notice about the same, however the appeals

were filed beyond the period of limitation. It is seen from the impugned orders of the 1st Respondent that the appeals were rejected only on the ground of delay and not on merits and that there is no whisper about the reply filed by the Petitioner having been considered and any opportunity of personal hearing having been given to the Petitioner. But, according to the Petitioner, the reason for not filing the appeals in time is that the Proprietor of the Petitioner Firm was not well at the relevant point of time and the Petitioner would be able to establish their case if an opportunity is provided. In the opinion of this Court, the reasons stated in the affidavit appear to be genuine. In these circumstances, it is just and necessary to provide an opportunity to the Petitioner to contest the tax demand on merits.

7. In the above said facts and circumstances, the delay in filing the appeals is condoned and the appeals are restored to the file of the 1st Respondent and the matter is remanded back to the 1st Respondent, by setting aside the impugned orders. The 1st Respondent is directed to consider the appeals afresh and pass orders, on merits and in accordance with law, after providing a reasonable opportunity to the Petitioner, including a personal hearing, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, these Writ Petitions are allowed. No costs. Consequently, the connected MPs are closed.

07.08.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
Srcm

To

1. The Deputy Commissioner (ST), GST – Appeal, Chennai-I, Chennai-6

2. The Deputy State Tax Officer-I, Mannady Assessment Circle
   Chennai North Division, Chennai-3

KRISHNAN RAMASAMY, J.

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