IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.19691 and 19694 of 2024
and
W.M.P.Nos.21558 and 21561 of 2024

Tvl.Chamakkat Tea Agencies,
GSTIN/ID : 33DIMPP2407M1ZZ,
Rep. by its Proprietor Kunjappan Varghese,
11/184H#A, Chembala, Gudalur,
The Nilgiris - 643 212. ... Petitioner in both W.Ps.

Vs.

1. The Deputy Commissioner (ST)(FAC),
Goods and Service Tax Appeal, Commercial Tax Building,
Dr. Balasundaram Road, Coimbatore - 641 018.

2. The Deputy State Tax Officer - 1,
Gudalur Circle, Commercial Tax Building,
Dr. Balasundaram Road, Coimbatore - 641 018.

... Respondent in both W.Ps.

COMMON PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to call for the records pertaining to the impugned orders in bearing Reference Nos. MP/GST/1707/2024/2019-20 and MP/GST/1708/2024/2020-21, dated 10.06.2024 issued by the first respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

For Respondents : Mr.G.Nanmaran
Special Government Advocate (Tax)

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COMMON ORDER

The present Writ Petitions are filed challenging impugned orders in bearing Reference Nos. MP/GST/1707/2024/2019-20 and MP/GST/1708/2024/2020-21, dated 10.06.2024, respectively issued by the first respondent and quash the same.

2. The learned counsel for the petitioner submits that in first week of June, 2024, the petitioner received a letter from the State Bank of India, Gudalur Branch, The Nilgiris, that his bank account was attached by the second respondent. The petitioner through his Auditor retrieved all notices and order of the second respondent, which are uploaded in the GST portal under "view additional notices during first week of June, 2024. The petitioner also came to know that his registration was cancelled with effect from 01.12.2020.

3. He further submits that the petitioner immediately filed an

appeal before the first respondent on 10.06.2024 against the order of the second respondent, but, the same was dismissed on the same day stating that the respondents have no power to condone the delay. The assessment order by the second respondent is also arbitrary since it has not considered the ITC available to be petitioner and also the valuation is arbitrary. Hence, the petitioner is constrained to file these Writ Petitions to set aside the orders passed by the first respondent.

4. The learned Special Government Pleader for the respondent submits that since there is a delay of 33 days in filing the appeal, the same was dismissed. However, this Court may pass an appropriate order.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondent and perused the materials placed before this Court.

6. Considering the fact that the petitioner came to know about the assessment order only after the bank attachment order was passed by the authorities concerned and thereafter, the petitioner filed an appeal with a delay of 33 days and the reasons assigned for not filing the appeal in time is just and

reasonable, this Court is inclined to condone the delay and accordingly, the delay of 33 days in filing the appeal is condoned on condition that the petitioner shall deposit 10% of the disputed tax demand within a period of four (4) weeks from the date of receipt of a copy of this order and the orders passed by the first respondent are set aside and the first respondent is directed to take the appeal filed by the petitioner on record and pass orders on merits and in accordance with law.

With the above directions, these Writ Petitions are allowed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

05.08.2024

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To

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   Gudalur Circle, Commercial Tax Building,
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KRISHNAN RAMASAMY, J.
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