IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

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

**W.P.No.21849 of 2024**
**and**
**W.M.P.Nos.23842 & 23844 of 2024**

M/s.Salma Constructions Private Limited,
No.3rd Floor, Old No.21,New No.23,
Station View Road, Kodambakkam,
Chennai-600 024.

... Petitioner

**Vs.**

1.The Deputy Commissioner (ST) (FAC),
GST Appeals-1,
PAPJM Building No.1, Greams Road,
3rd Floor, Chennai- 600 006.

2. State Tax Officer RS-I,
Intelligence-I, Chennai-6,
PAPJM Building No.1, Greams Road,
1st Floor, Chennai-600 006.

3. The Assessment Commissioner (ST),
Kodambakkam Assessment Circle,
No.1, PAPJMM Annexure Building,
4th Floor, Greams Road, Annexure Building,
Chennai- 600 006. ... 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 order in Rc.No.2441/2024/A1 dated 08.07.2024, on the file of the 1st respondent and quash the same and direct the 1st respondent to decide the appeal on merits in accordance with law.

For Petitioner : Mr.Z.Rifa Fathima

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

**ORDER**

This writ petition has been filed challenging the order dated 08.07.2024, in Rc.No.2441/2024/A1, on the file of the 1st respondent and for a direction to the 1st respondent to decide the appeal on merits and in accordance with law.

2. Mr.C.Harsha Raj, learned Additional Government Pleader (Taxes), 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 initially the Petitioner was issued an intimation notice in DRC 01A for the Assessment Year 2017-18, on 08.09.2024, pursuant to which the Petitioner has uploaded the necessary supporting documents in the portal on 22.09.2023 as a reply, despite the same, the Respondents issued show cause notice dated 30.09.2023 to the petitioner and subsequently passed the order dated 30.12.2023. Since the Petitioner's accountant, had not brought to the knowledge of the Petitioner about the aforesaid order,the Petitioner was unaware of the same and he came to know of the said order only after issuance of recovery notice by the 3rd Respondent on 12.04.2024 and therefore the Petitioner could not file an Appeal in time. Thereafter the Petitioner filed an Appeal before the Appellate authority with the delay of 88 days, which was rejected by the 1st respondent on 08.07.2024, on the ground that the said authority has no power to condone the delay. Hence, he requested this Court to condone the delay and pass appropriate orders.

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

5. 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.

6. In the present case, since the Petitioner is not aware of the order dated 30.12.2023 which was uploaded in the GST portal, he could not able to file Appeal in time. Considering the said fact and also 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. Accordingly, this Court passes the following order:-

(i) The rejection order dated 08.07.2024 passed by the 1st respondent is set aside and the delay of 88 days in filing the appeal before the 1st respondent is condoned.

(ii) The 1st respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

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

**13.08.2024**

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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**KRISHNAN RAMASAMY.J.,**

arr

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