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W.P.No.21932 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.21932 of 2024

and

W.M.P Nos.23914 and 23915 of 2024

Tvl.Kaliappa Indane Gas Agencies,
Rep. by its Partner N.Aswin Kaliappa,
SF No.922-1/A, AVA Colony,
Pollachi Main Road, Anamalai - 642 104.

... Petitioner

Vs.

The State Tax Officer (ST),
Pollachi Rural Assessment Circle,
Pollachi - 642 001.

... Respondent

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 of the respondent in his proceedings in GSTIN: 33AARFK0218K1ZB/2022-23, dated 16.10.2023 and quash the same.

For Petitioner : Mr.S.Ramathan

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

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ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to call for the records of the respondent in his proceedings in GSTIN: 33AARFK0218K1ZB/2022-23, dated 16.10.2023 and quash the same.

2. It is the case of the petitioner that the respondent issued an intimation in GST DRC-01A, dated 07.08.2023 stating that the petitioner has wrongly availed ITC on the purchase of Motor Vehicle. The respondent has proposed to levy tax of Rs.2,51,054/-, interest of Rs.47,872/- and penalty of Rs.2,51,054/- under CGST and SGST respectively. The respondent also issued notice in GST DRC 01, dated 25.03.2023. Since the petitioner has no knowledge and access to the portal, he could not file a reply. The petitioner has made DRC 03, dated 10.10.2023 and made reversal of credit of Rs.2,51,054/-. The petitioner has also paid interest of Rs.18,128/- under CGST and SGST respectively. The respondent has simply confirmed the proposal and has levied tax of Rs.2,51,054/-, interest of Rs.58,437/- and penalty of Rs.2,51,054/- by order dated 16.10.2023. The petitioner came to know about the recovery action for collection of balance amount. Against which, the petitioner filed an appeal



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with a delay of 25 days before the Deputy Commissioner (ST) (FAC), GST Appeal, Coimbatore disputing the interest and penalty on the ground that the petitioner has already paid the tax of Rs.2,51,054/- and interest of Rs.18,128/-. The appellate authority has dismissed the appeal holding that the appeal was filed beyond the statutory time limit prescribed under the Act and it was barred by limitation. Hence, the present Writ Petition is filed.

3. The learned Government Advocate (T) appearing for the respondent would submit that if any order is passed by this Court, that may be complied with by the respondent.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (T) appearing for the respondent and perused the materials placed before this Court.

5. Considering the facts that all the notices were uploaded in the portal under the "view additional notices/orders" and therefore, the petitioner had no occasion to view the said column and the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is violation of principles of natural justice and the



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reason assigned for not filing an appeal, in time, appears to be genuine and the petitioner has paid the entire tax amount, the delay of 25 days in filing the appeal is condoned and the respondent is directed to take the appeal on record and pass orders on merits and in accordance with law.

With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

13.08.2024

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To

The State Tax Officer (ST),
Pollachi Rural Assessment Circle,
Pollachi - 642 001.



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KRISHNAN RAMASAMY, J.
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