IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

**THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.22297 of 2024**
**and W.M.P.Nos.24285 and 24286 of 2024**

M/s.Vijay Engineering Works,
Represented by its Proprietor P.Ajaykosh,
No.643/2E, Somangalam Main Road,
Somangalam Koottu Road,
Kundrathur, Nandambakkam,
Chennai - 600 069,
Kancheepuram District. ... Petitioner

Vs.

1. The Deputy State Tax Officer,
Guindy Assessment Circle,
Integrated C.T. & Registration Department (South Tower),
Room No.253, II Floor,
Govt. Farm Village,
Nandanam, Chennai - 600 035.

2. The Deputy Commissioner (S.T),
GST-Appeal, Chennai - II,
3rd Floor, Annexe Building,
No.1, Greams Road, Chennai - 600 006. ... Respondents

**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 in the impugned order passed by the first respondent in GSTIN: 33ADYPA5126G1ZN/ 2019-2020, dated 02.08.2023 and also the Summary of order in DRC-07, dated 02.08.2023 in Ref.No.ZD330823009501T and the records of the second respondent in R.C.No.87/2024/A1, dated 26.04.2024 in which the appeal filed by the petitioner was rejected on the grounds of limitation and direct the second respondent to entertain the appeal without reference to limitation and dispose of it on merits and in accordance with law.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.T.N.C.Koushik
Additional Government Pleader (T)

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**ORDER**

The present Writ Petition is filed challenging the impugned order impugned order passed by the first respondent in GSTIN: 33ADYPA5126G1ZN/ 2019-2020, dated 02.08.2023 and also the Summary of order in DRC-07, dated 02.08.2023 in Ref.No.ZD330823009501T and the records of the second respondent in R.C.No.87/2024/A1, dated 26.04.2024 in which the appeal filed by the petitioner was rejected on the grounds of limitation and direct the second respondent to entertain the appeal without reference to limitation and dispose of it on merits and in accordance with law.

2. The learned counsel for the petitioner submits that the first respondent based on the Intimation in DRC -01A dated 21.07.2022 and the Show cause notice in DRC-01, dated 11.11.2022 for the year 2019-20, had confirmed the demand of Rs.7,62,379/- which includes tax, interest and penalty vide impugned order dated 02.08.2023 and the same was not communicated through other modes of service and the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is clear violation of principles of natural justice.

3. The learned counsel for the petitioner further submits that the petitioner had filed an appeal before the first respondent with a petition for condonation of delay of 60 days. However, the second respondent had refused to entertain the appeal and rejected it on the grounds that they have no power to condone the delay. The reason for the delay in filing an appeal is that since the entire communications were uploaded in the common portal under "View Additional Notices/Orders", and therefore, the petitioner had no occasion to view the said column. The petitioner came to know about the impugned order, only when he received the attachment order in the month of January, 2024. Hence, he prays to condone the delay of 60 days in filing the appeal and to

direct the first respondent to take the appeal on record and decide the same on merits. He further submits that the petitioner has already paid 10% of the disputed tax demand while filing the appeal on 26.01.2024.

4. The learned Additional Government Pleader (T) for the respondents would submit that though the notices were uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearings. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (T) for the respondents and perused the materials placed before this Court.

6. The reasons assigned by the petitioner for condoning the delay of 60 days in filing an appeal that since the entire communications were uploaded in the common portal under "View Additional Notices/Orders", and therefore, the petitioner had no occasion to view the said column and the petitioner came to know about the impugned order, only when he received the attachment order in the month of January, 2024, are just and reasonable.

Therefore, this Court is inclined to condone the delay and accordingly, the delay of 60 days in filing the appeal is condoned and the impugned orders passed by the respondents are set aside. While setting aside the impugned orders, this Court directs the authority concerned to take the appeal filed by the petitioner 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 Petition is closed.

**13.08.2024**

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To

1. The Deputy State Tax Officer,
   Guindy Assessment Circle,
   Integrated C.T. & Registration Department (South Tower),
   Room No.253, II Floor,
   Govt. Farm Village,
   Nandanam, Chennai - 600 035.

2. The Deputy Commissioner (S.T),
   GST-Appeal, Chennai - II,
   3rd Floor, Annexe Building,
   No.1, Greams Road, Chennai - 600 006.

**KRISHNAN RAMASAMY, J.**

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