C.M.P.No.17607 of 2024
in W.A.No.1004 of 2021

R. SURESH KUMAR, J.
AND
C.SARAVANAN, J.

(Order of the Court was made by **R.SURESH KUMAR, J**.)

An order has been passed on 30.03.2021 by a Co-ordinate Bench in W.A.No.1004 of 2021, wherein the following directions have been given:

" 16. For all the above reasons, the writ appeal is partly allowed on the following terms:

i. The appellant is granted 30 days from the date of receipt of a copy of this judgment to avail the appeal remedy before the Appellate Deputy Commissioner (CT)(North), Chennai-6 against the assessment order insofar as it relates to the tax levied on the difference noticed on stock reconciliation during inspection ie., tax amount of Rs.77,82,481/- and if the appellant files an appeal within the time permitted, the First Appellate Authority shall entertain the appeal without rejecting the same on the ground of limitation; and

ii. With regard to the other two issues namely the inter-State Sales treated as local sales where the tax of Rs.2,50,04,903/- had been levied and the *reversal of input tax credit under Section 19(5)(c) of the Act to the tune of Rs.54,09,521/- the appellant is directed to pay 10% of the disputed tax within a period of 30 days from the date of receipt of a copy of this judgment and if the same is done, they are entitled to approach the assessing officer by making a further representation by treating that portion of the order of assessment dated 26.02.2016 to be a show cause notice and produce all documents in support of their claim and if the same is done, the Assessing Officer shall consider and examine the request made by the appellant to invoke Section 81 of the Act, call upon the assessee to produce relevant documents to substantiate their claim and take a decision on merits and in accordance with law."*

2. Despite the time of 30 days had been given to file an appeal before the Appellate Deputy Commissioner (CT) with a condition to pay 10% of the tax demanded, the said 10% of the tax demanded had not been paid, resultantly the appeal had also not been filed.

3. After 3½ years, the present petition has been filed. Dr.A.Thiyagarajan, learned Senior Counsel appearing for the petitioner

submits that on 04.03.2021 the petitioner dealer had been arrested and he had been released only on 28.03.2023. However, there has been no averment made in the affidavit as to on what reason the petitioner dealer had been arrested on 04.03.2021 and released on 28.03.2023.

4. Be that as it may. Whether he had been arrested or had been in Jail is not a matter to be gone into. The petitioner dealer, if at all wanted to agitate the issue by filing an appeal before the Appellate Deputy Commissioner (CT), should have complied with the condition imposed by this Court by order dated 30.03.2021 to deposit only 10% of the tax demanded. However, the petitioner did not comply with the order and did not file the appeal within 30 days or even beyond limitation.

5. Moreover, the reason for not complying with the order or for not coming before this Court to seek for extension of time even after the petitioner's release from Jail on 28.03.2023 has not been explained in the affidavit filed in support of this petition. When that being the position, we do not find any plausible reason to entertain this petition, that too after 3 ½ years.

6. If we entertain this petition and if we incline to grant extension of time, that will amount to extending the limitation period to file the appeal beyond 3 ½ years, which would set a wrong precedent. Therefore, we are not inclined to entertain this petition. Accordingly, the petition is dismissed.

(R.S.K.,J.) (C.S.N,J.)
29.10.2024

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