IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.22973 of 2024 and
W.M.P.Nos.25040 & 25042 of 2024

M/s.Vijay Engineering Works,
Represented by its Proprietor
Mr.P.Ajaykosh
No.643/2E, Somangalam Main Road,
Somangalam Koottu Road,
Kundrathur, Nadambakkam,
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 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records in the order passed by the 1st Respondent in the impugned order in GSTIN:33ADYPA 5126G1ZN/2020-21 dated 07.08.2023 and also the Summary of order in DRC-07 dated 07.08.2023 in Ref.No.ZD330823031455K and the records of the 2nd Respondent in RC.No.284/2024/A1 dated 14.03.2024 in which the appeal filed by the petitioner was rejected on the grounds of limitation and quash the same and direct the 2nd respondent to entertain the appeal without reference to limitation and to dispose of it on merits and in accordance with law.

For Petitioner : Mr.Joseph Prabakar
For Respondents : Mr.J.N.C.Kaushik
Additional Government Pleader (T)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 07.08.2023 passed by the first respondent for the assessment year 2020-2021.

2. Mr.J.N.C.Kaushik, learned Additional Government Pleader takes notice on behalf of the respondents. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

3. The learned counsel for the petitioner submitted that the first

respondent had issued an intimation in DRC-01A dated 22.07.2022, demanding the petitioner for payment of tax along with interest and penalty. Thereafter, the first respondent issued Show Cause Notice in DRC-01 dated 05.12.2022 to the petitioner, for which, the petitioner had filed the reply on 18.02.2023. However, the first respondent had rejected the petitioner's reply on the ground of non-filing of further documents and proceeded to pass the impugned order on 07.08.2023. Since the same was uploaded in the GST common portal under "View additional Notices/orders" and the physical version of such order was not served on the petitioner, the petitioner was unaware of the same. The petitioner came to know about the impugned proceedings only in the second week of February, 2024. Being aggrieved over the impugned order dated 07.08.2023, the petitioner filed an appeal before the second respondent/Deputy Commissioner (S.T), GST-Appeal, Chennai with a delay of 79 days and the same was rejected vide letter dated 14.03.2024, on the grounds that the appeal has been filed beyond the limitation period of 120 days. He submitted that since he was not aware of the impugned order, he was not able to file the Appeal within the time of limitation. He further submitted that though the impugned assessment order is under challenge in this Writ petition, he requested this Court to condone the delay in filing the Appeal before the appellate authority and direct the said authority to pass appropriate orders.

4. Mr.J.N.C.Kaushik, learned Additional Government Pleader (Tax) appearing for the respondents has no objection for condoning the delay and prays for appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

6. In the present case, it appears that the petitioner was not aware of the impugned order dated 07.08.2023, due to which, there was a delay of 79 days in filing the appeal. Considering the same and in view of the settled proposition of law that when substantial justice and technical consideration are pitted against each other, the cause of substantial justice should be given due weightage. Therefore, this Court is inclined to condone the delay of 79 days in filing the Appeal before the Appellate authority. Accordingly, this Court passes the following order:-

(i) The order dated 07.08.2023, passed by the first respondent/Deputy State Tax Officer, is set aside and the delay of 79 days in filing the appeal before the appellate authority is condoned.

(ii) The second respondent/Appellate Deputy Commissioner (ST) GST Appeal, 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.

14.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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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),
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3rd Floor, Annexe Building,
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Krishnan Ramasamy,J.,
jd

W.P.No.22973 of 2024

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