IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23641 of 2024
and
W.M.P.Nos.25859 & 25860 of 2024

Tvl.PGN Traders,
Rep by its Partner,
Mr.Ganesan P
No.3, Labbai Street, Alandur,
Chennai 600 016.

... Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Alandur Assessment Circle,
Room No.352, 3rd Floor,
The Integrated Building for Commercial Tax
and Registration Department (South Tower),
Nandanam, Chennai 600 035

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order dated 09.12.2023 issued by the respondent in

Ref.No.33AAFFP5111L1ZE/2019-20 and quash the same.

For Petitioner : Mr.G.Derrick Sam

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 09.12.2023 passed by the respondent.

2. Mr.C.Harsha Raj, learned Additional Government Pleader, 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 the impugned order was challenged by the petitioner on the ground that the State GST Authorities will not have any jurisdiction to issue the show cause notice pertaining to the issues, for which, the show cause notice

was already issued by Central GST Authorities.

4. Further, he would submit that in the impugned order, it has been alleged by the respondent that the petitioner was engaged in business transaction with a non-existing entity, viz., M/s.R.R.Traders. However, since the petitioner was in the search of the relevant documents to establish his case to prove the existence of the entity, he was not in a position to file an appeal within the period of limitation. Hence, though he had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to condone the delay in filing the appeal before the concerned Authority and contest the matter on merits by producing all the relevant documents to substantiate his case.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that in the present case, the issues pertaining to the show cause notice issued by the respondent is different from the issues pertaining to the show cause notice issued by the Central GST Authorities and hence, the respondent has jurisdiction to issue the said show cause notice. However, he fairly submits that since

the petitioner made submission that they have collected some of the documents to establish their case, the same has to be considered by the respondent. Hence, he requests this Court to pass appropriate orders to permit the petitioner to file an appeal subject to the payment of any substantial amount to the respondent.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent and also perused the materials available on record.

7. In the present case, today, the learned counsel for the petitioner has restricted his relief and requested this Court to condone the delay in filing the appeal before the concerned Authority on the basis that they had found some of the new documents, which will substantiate their case before the concerned Authority. In such case, this Court is of the view that the justice has to be rendered to the petitioner by providing an opportunity to present his case before the concerned Authority and hence, this Court is inclined to consider the submissions made by the petitioner, subject to the terms as contended by the respondent. Accordingly, this

Court passes the following order:

(i) The delay in filing the appeal against the impugned assessment order is hereby set aside subject to the payment of a sum of Rs.25,000/- by the petitioner to the respondent;

(ii) Thereafter, the petitioner is directed to file their appeal before the concerned Appellate Authority, along with the proof with regard to the payment of aforesaid amount (Rs.25,000/-), within a period of 30 days from the date of receipt of copy of this order.

(iii) In such case, the Appellate Authority shall consider the said appeal filed by the petitioner on its own merits and in accordance with law by providing sufficient opportunity to the petitioner without pressing for limitation.

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

20.08.2024

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

To

The Assistant Commissioner (ST)(FAC),
Alandur Assessment Circle,
Room No.352, 3rd Floor,
The Integrated Building for Commercial Tax
and Registration Department (South Tower),
Nandanam, Chennai 600 035

KRISHNAN RAMASAMY.J.,

nsa

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