IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.23201 of 2024 and
W.M.P.No.25359 of 2024

Tvl.Jayalakshmi Steel Corporation,
GSTIN/ID: 33AACFJ2643L1ZG,
Represented by its Partner Ravichandran,
No.190, Kurchi New Town, SIDCO,
Coimbatore 641 021. ...Petitioner

-Vs-

1. The Deputy Commissioner (ST) (FAC),
Goods and Service Tax Appeal, Commercial Tax Building,
Dr.Balasundaram Road, Coimbatore-641 018.
2. The Deputy State Tax Officer-I,
Podanur Assessment Circle, Commercial Tax Building,
Dr.Balasundaram Road, Coimbatore-641 018. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order in bearing Reference No.MP.No.398/2024 dated 04.07.2024 issued by the 1st respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam
For Respondents : Mr.G.Nanmaran,
Special Government Pleader (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the order dated 04.07.2024 passed by the first respondent.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the respondents.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submitted that the second respondent issued DRC-01A dated 18.07.2023 through GST portal, for which, the petitioner filed a reply on 19.07.2023, requesting to rely upon the documents and cross examination of the supplier. However, no reply was received from the second respondent and the petitioner was on the impression that the issue was closed. Further, he submitted that, on 17.02.2024, the petitioner was informed by the second respondent about the order in DRC-07 dated 06.10.2023, and the same was retrieved by the petitioner from the GST portal under the head "View additional Notices and orders" on the same day

and the physical version of such order was not served on the petitioner. The petitioner came to know about the impugned proceedings only in the month of February, 2024. Being aggrieved over the impugned order dated 06.10.2023, the petitioner filed an appeal before the first respondent/Deputy Commissioner (S.T) (FAC) Chennai, with a delay of 12 days and the same was rejected vide order dated 04.07.2024, on the ground that the appeal has been filed beyond the limitation period of 120 days. He submitted that since the petitioner was not aware of the impugned order, he was not able to file the Appeal within the time of limitation. He further submitted that since the assessment order is under challenge before the first respondent, he requested this Court to condone the delay in filing the Appeal and direct the Appellate Authority to consider and pass appropriate orders.

5. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) appearing for the respondents has no objection for condoning the delay and requested this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Special Government Pleader (Taxes) appearing for the respondents and also perused the materials available on record.

7. In the present case, it appears that the petitioner was not aware of the impugned order dated 06.10.2023, due to which, there was a delay of 12 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 12 days in filing the Appeal before the Appellate authority. Accordingly, this Court passes the following order:-

(i) The impugned order dated 04.07.2024, passed by the first respondent, is set aside and the delay of 12 days in filing the appeal before the Appellate Authority is condoned.

(ii) The first respondent/Deputy Commissioner (ST) (FAC), 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.

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

14.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
1. The Deputy Commissioner (ST) (FAC),
Goods and Service Tax Appeal, Commercial Tax Building,
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2. The Deputy State Tax Officer-I,
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Krishnan Ramasamy,J.,
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