IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24042 of 2024
& W.M.P.Nos.26304 & 26305 of 2024

Mr.Enayathula,
Proprietor of Tvl.Salar and Sons,
50, Mullai Nagar, Prithvimangalam Road,
Prithvimangalam, Villupuram,
Tamil Nadu 606 206.

... Petitioner

Vs.

The State Tax Officer,
also known as Commercial Tax Officer,
Tirukoilur-Kallakurichi-Cuddalore,
TamilNadu 605757

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the respondent herein, in GSTIN 33AAKPE2562R1ZE/2017-18 along with Form GST DRC-07 in Ref.No.ZD3311231634102 dated 27th November 2023 for the tax period between July 2017 to March 2018 and quash the same.

For Petitioner : Mr.C.Bosco

For Respondent : Mr.V.Prashanth Kiran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 27.11.2023 passed by the respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, 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 all notices/communications were uploaded by the respondent under the column, viz., "View Additional Notices and Orders", in the GST portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Aggrieved over the

said order, an appeal was preferred by the petitioner. However, since the said appeal was filed with a delay of 80 days, the same was rejected vide the order dated 21.06.2024.

4. Further, he would submit that a recent amendment made in Section 128(A) of the Goods and Services Tax Act, 2017, provides for waiver of 100% interest and penalty, demanded in assessment order, subject to the payment of entire tax liabilities by the Assessee. When such being the case, since the petitioner has paid the entire tax liabilities subsequent to the assessment order, he is entitled for waiver of interest and penalty as stated above and hence, he requests this Court to condone the delay in filing the appeal and grant one last opportunity to present their case before the concerned Appellate Authority.

5. In reply, the learned Government Advocate appearing for the respondent would submit that though all the notices were duly uploaded by the respondent, the petitioner has only failed to avail the opportunity and hence, the impugned order came to be passed by the respondent. Further, he would submit that if an Assessee made the payment of entire

tax liabilities, he is certainly entitled for waiver of interest and penalty as per Section 128(A) of the GST Act. Therefore, he fairly requests this Court to pass appropriate orders by condoning the delay and directing the respondent to take the appeal on record.

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

7. In the present case, it appears that the petitioner was unaware of the impugned order, due to which, there was a delay in filing the appeal. Therefore, being satisfied with the reasons assigned by the petitioner and also considering the submission made by the petitioner with regard to the payment of entire tax liabilities, this Court is inclined to condone the delay. Accordingly, this Court passes the following order:-

(i) The rejection order dated 21.06.2024 is set aside and the delay of 80 days in filing the appeal before the Appellate Authority is hereby condonned.

(ii) The Appellate Authority 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 petitions are also closed.

27.08.2024

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

KRISHNAN RAMASAMY.J.,

nsa

To

The State Tax Officer,
also known as Commercial Tax Officer,
Tirukoilur-Kallakurichi-Cuddalore,
TamilNadu 605757

W.P.No.24042 of 2024
& W.M.P.Nos.26304 & 26305 of 2024

27.08.2024