IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25437 of 2024
and
W.M.P.Nos.27803 & 27804 of 2024

Power Line Traders,
Represented by its Partner
R.Muthukumar,
Plot No.36, Pallavaram Kundrathur Main Road,
Karima Nagar, Kundrathur, Chennai-600 069. ...Petitioner

Vs.

1. Deputy State Tax Officer-1,
Kundrathur Assessment Circle,
Integrated GST Building,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram, Nazethpet,
Poonamallee 600 123.

2. Deputy Commissioner (ST),
GST-Appeal, Chennai-II,
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 Certiorari to call for the impugned order of the first respondent passed in GSTIN : 33AAHFP9516F1Z8/2017-18 dated 22.11.2023 and quash the same.

For Petitioner : Mr.S.Ramamurthi
for Mr.N.Murali

For Respondents : Ms.Amirtapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 22.11.2023 passed by the respondent.

2. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

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 first respondent issued a show cause notice in Form DRC-01 dated 15.09.2023, alleging shortfall of ITC and fixed personal hearing on 27.10.2023. The said Show Cause Notice was uploaded on the GST portal under the head "View additional Notices and orders". According to the petitioner, it was unaware of

the said notices uploaded in the GST common portal, and therefore failed to respond to the said notices/personal hearing, which led to the passing of the impugned order dated 22.11.2023. Further, he submitted that a physical version of such order was not served on the petitioner. The petitioner came to know about the impugned proceedings passed by the first respondent only in the month of March 2024, directing the petitioner to pay the arrears as per the impugned order dated 22.11.2023. Being aggrieved over the impugned order dated 22.11.2023, the petitioner filed an appeal before the second respondent/Deputy Commissioner (S.T), Chennai, with a delay of 21 days and the same was rejected vide order dated 05.08.2024, on the ground that the appeal has been filed beyond the statutory period. 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. Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Taxes), 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 Government Advocate for the respondent and perused the material available on record.

7. In the present case, it appears that the petitioner was unaware of the impugned order dated 22.11.2023, due to which, there was a delay of 21 days in filing the appeal. Learned counsel on either side submitted that they will contest the case before the Appellate Authority. In view of the said submission, this Court is not expressing any opinion on the merits of the order dated 22.11.2023, leaving it open to the petitioner to work out their remedy in the appeal.

8. In view of the settled proposition of law that when cause for substantial justice and technical considerations are pitted against each other, the cause of substantial justice should be given due weightage, this Court is inclined to condone the delay of 21 days in filing the Appeal before the Appellate Authority. Accordingly, this Court passes the following orders:-

(i) The order dated 05.08.2024, passed by the Appellate Authority is set aside and the delay of 21 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.

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

04.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
1. Deputy State Tax Officer-1,
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Varadharajapuram, Nazethpet,
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2. Deputy Commissioner (ST),
GST-Appeal, Chennai-II,
No.1, Greams Road,
Chennai-600 006.

Krishnan Ramasamy,J.,

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