IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28614 of 2024 &
W.M.P.No.31201 of 2024

Trisula Engineering and Trading Private Limited,
Rep. by its Authorized Signatory M.Vijaykumar,
No.278-A, Thalakuppam Road, Lalpuram,
Manalur, Chidambaram- 608 602. ... Petitioner

Vs.

Assistant Commissioner,
Cuddalore GST & C.Ex. Division,
Trichy Commissionerate,
CTO Building, Nellikuppam Main Road
Cuddalore- 607001. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the impugned order of the respondent passed in Impugned Order-In-Original Number:10/2024 (GST_RF) dated 04.06.2024 and quash the same.

For Petitioner : Mr.N.Murali

For Respondent : Mr.Rajendran Raghavan
Senior Standing Counsel
for Mr.R.P.Pragadish
Senior Standing Counsel

ORDER

This writ petition has been filed by the petitioner challenging the order dated 04.06.2024 passed by the respondent and to quash the same.

2. Mr.Rajendran Raghavan, learned Senior Standing Counsel takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The case of the Petitioner is that the Petitioner Company filed refund application on 07.03.2024 for refund of un-utilized ITC due to exports made without payment of tax for a period from April 2019 to March 2020 to the tune of Rs.3,80,824/-. Thereafter Show Cause Notice

was issued on 03.05.2024, alleging that refund claim to the tune of Rs.3,80,824/- for the period from 01.04.2019 to 31.03.2020 is liable to be rejected as the same is time barred, for which the Petitioner filed its reply on 30.05.2024, but the Respondent without considering the same passed the impugned order dated 04.06.2024 rejecting aforesaid refund application on the ground of limitation. Challenging the said order, the present Writ Petition has been preferred by the Petitioner.

5. The main contention of the learned counsel for the Petitioner is that in the normal course last date of submission of the refund application is 31.03.2022, but by virtue of the Notification No.13/2022 dated 05.07.2022, the period pertaining to 01.03.2020 to 28.02.2022 will be excluded and the last date for submission of refund application is 31.03.2024 and the petitioner submitted its application on 07.03.2024, which is well within the time, but the Respondent without considering the same has rejected the refund application filed by the petitioner on the ground of limitation. He therefore prays to set aside the same.

6. On the other hand, the learned Senior Standing Counsel appearing for the Respondent would submit that as per the Notification No.13/2022 dated 05.07.2022, the last date for filing the refund claim for the period 2019-20 is 29.02.2024. Since the Petitioner filed the refund application on 07.03.2024 with a delay of 7 days, the application came to be rejected.

7. In reply, the learned counsel appearing for the Petitioner submitted that the original time limit expires on 31.03.2022 i.e., 2 years from the relevant date. However, the effect of the above mentioned notification is that the period from 01.03.2020 to 28.02.2022 shall be excluded, which means that the 2 years exclusion period shall be added to the original time-limit of 31.03.2022 which stands extended to 31.03.2024, for which the learned Senior Standing Counsel appearing for the Respondent submitted that the delay may be condoned and appropriate orders may be passed

8. Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent and also perused the materials available on record.

9. In the present case, according to the the learned Senior standing counsel appearing for the Respondent as per the Notification No.13/2022 dated 05.07.2022, the last date for filing the refund claim for the period 2019-20 is 29.02.2024, but the learned counsel for the Petitioner submitted that the effect of the above mentioned notification is that the period from 01.03.2020 to 28.02.2022 shall be excluded, which means that the 2 years exclusion period shall be added to the original time-limit of 31.03.2022 which stands extended to 31.03.2024. It appears that due to some confusion whether the limitation ends on 29.02.2024 or 31.03.2024, the Petitioner filed the rectification application with a delay of 7 days.

10. Considering the submissions made by the learned counsel for the Petitioner as well as the Respondent and in view of the settled proposition of law that when substantial justice is pitted against technical

consideration, credence should be given to the substantial justice, this Court is inclined to condone the delay of 7 in filing the refund application before the Respondent. Accordingly, this Court passes the following order:-

> (i) Accordingly, the impugned order dated 04.06.2024 passed by the Respondent is set aside and the delay of 7 days in filing the refund application is condoned.
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> (ii) The Respondent is directed to take the refund application on record, and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

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

17.10.2024

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

Assistant Commissioner,
Cuddalore GST & C.Ex. Division,
Trichy Commissionerate,
CTO Building, Nellikuppam Main Road
Cuddalore- 607001.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.28614 of 2024

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