IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28358 of 2024
& W.M.P.No.30920 of 2024

M/s.Winner Dairy Private Limited,
Represented by its Director,
Mr.K.Venkataraman,
277, Mailam Road,
Madagadipattu, Puducherry 605 107.

... Petitioner

Vs.

1.The Commissioner of GST and Central Excise (Appeals-I),
Office of the Commissioner of GST and Central Excise (Appeals-I),
26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

2.The Additional Commissioner,
Office of the Commissioner of GST and Central Excise,
No.1, Goubert Avenue (Beach Road),
Puducherry 605 001.

... 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 in Order-in-

Appeal No.252/2024 (CTA-1) dated 13.08.2024 on the file of the 1st respondent for FYs 2017-18 to 2021-22 and quash the same.

For Petitioner	:	Ms.A.Nikitha
For Respondent	:	Mr.M.Santhanaraman, Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned order 13.08.2024 passed by the 1st respondent.

2. Mr.M.Santhanaraman, learned Senior Standing counsel, takes notice on behalf of the respondents. 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 initially, the assessment order was passed by the respondents on 25.09.2023. At the same time, the Accountant of the petitioner, who is handling this matter, fell sick and got admitted in the hospital, due to

which, he was unable to inform with regard to the said assessment order to the petitioner. Hence, the appeal was filed by the petitioner with a delay of 80 days. However, since the respondents have no jurisdiction to condone the delay of 80 days, they had dismissed the appeal on the aspect of limitation. Therefore, 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.

4. On the other hand, the learned Senior Standing counsel appearing for the respondent would submit that though the assessment order was served to the petitioner, he had failed to file the appeal within the prescribed time limit. Hence, he requests this Court to pass appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Senior Standing counsel appearing for the respondents and also perused the entire materials available on record.

6. In the case on hand, due to the ill-health of the Accountant of the petitioner, the petitioner was unable to file the appeal in time. However, the reasons assigned by the petitioner for non-filing of appeal within the prescribed time appears to be genuine. Therefore, being satisfied with the reasons assigned by the petitioner and also considering the submission made by the petitioner, this Court is inclined to condone the delay in filing the appeal by the petitioner on terms. Accordingly, this Court passes the following order:-

(i) The rejection order dated 13.08.2024 is set aside and the delay of 80 days in filing the appeal before the 1st respondent is hereby condoned, subject to the payment of a sum of Rs.5,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of copy of this order.

(ii) Upon production of proof with regard to the payment of a sum of Rs.5,000/- as stated above, the 1st respondent is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing sufficient opportunity to the petitioner, as expeditiously as possible.

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

24.09.2024

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

To

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KRISHNAN RAMASAMY.J.,

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