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W.P.No.30478 of 2024

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.30478 of 2024
and
W.M.P.No.33111 of 2024

S.Sagunthala
Proprietrix of
M/s.Annadurai Creations
No:613/2/3, Mettupalayam Road,
Sathyamangalam
Erode-638 402.

... Petitioner

Vs.

1. Deputy State Tax Officer
Sathyamangalam Asst., Circle
Sathyamangalam
Erode- 638 402.

2. Sales Tax Officer
Commercial tax department
Sathyamangalam Asst, Circle
Sathyamangalam
Erode- 638 402.

3. The Manager
Karur Vyshya Bank
P.B.No.1, 112, Bazar Street

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Sathyamangalam
Erode- 638 402.

... Respondents

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Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the order passed by the 1st respondent vide ref.no:ARN# AD330524086704Z, dated 09.07.2024 and to quash the same.

For Petitioner : Mr.S.Natarajan
For Respondents : Ms.Amirthpoonkodi
Dinakaran (R1 & R2)
Government Advocate (Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 09.07.2024 passed by the Appellate Authority and to quash the same.

2. Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the respondents 1 and 2. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.



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3. The learned counsel for the petitioner would submit that the show cause notice dated 13.06.2023 was issued to the Petitioner by the 1st respondent. Since the Petitioner had not filed the reply within the specified time, the 1st Respondent passed the assessment order dated 29.08.2023. Subsequently, the 2nd Respondent issued recovery notice to the 3rd Respondent, pursuant to which the bank account of the Petitioner was freezed by the 3rd Respondent. He further submitted that being aggrieved over the assessment order dated 29.08.2023, the Petitioner filed an Appeal before the Appellate Authority viz., **Deputy Commissioner (CT), Tiruppur -I, Tiruppur** on 28.05.2024, which was rejected by the said authority on 09.07.2024, on the ground that there was a delay of 183 days in filing the Appeal and the 2nd Respondent has no power to condone the same.

4. Further, he would submit that since the Petitioner's son was hospitalized from 14.09.2023 till 18.10.2023, due to brain hemorrhage and even after the she has to take care of her son, she could not



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concentrate on her business and therefore unable to file Appeal in time.

He therefore would submit that the delay may be condoned and the 1st Respondent may be directed to take the Appeal on file and pass appropriate orders.

5. The learned Government Advocate (Taxes) appearing for the respondents has stated no objection to condone the delay and requested this Court to pass appropriate order to the respondents for disposal of the appeal filed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondents and also perused the materials available on record.

7. In the present case, it appears the Petitioner filed an Appeal before the Appellate Authority with a delay of 183 days and the same was rejected on the ground of delay. In view of the settled proposition of law that when substantial justice is pitted against technical consideration,



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credence should be given to the substantial justice, this Court is inclined

to condone the delay of 183 in filing the Appeal before the 1st

Respondent. Accordingly, this Court passes the following order:-

(i) Accordingly, the rejection order dated 09.07.2024 passed by the Appellate Authority viz., **Deputy Commissioner (CT), Tiruppur -I, Tiruppur** is set aside and the delay of 183 days in filing the appeal is condoned.

(ii) The Appellate Authority is directed to take the appeal on record, if it is otherwise in order and pass appropriate orders on merits and in accordance with law, after providing 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 also closed.

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Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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KRISHNAN RAMASAMY.J.,

arr

To

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Sathyamangalam
Erode- 638 402.
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Commercial tax department
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Tiruppur.

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08.08.2024