IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28552 of 2024
W.M.P.No.31118 of 2024

Tvl Ananyas Enterprises
Rep By Its Proprietor Palanisamy Karthik Kumar
No.618/2 kasthurinayakan Palayam
Vadavalli
Coimbatore-641 041 ...Petitioner

Vs

1.The Deputy Commissioner (ST) (FAC)
GST Appeals, Commercial Tax Office Buildings
Dr.Balasundaram Road
Coimbatore- 641018.

2.The Assistant Commissioner (State Tax)
Velandipalayam Circle Coimbatore. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari call for the records pertaining to the impugned Appeal Order MP.No.105 of 2024 dated 19.08.2024 issued by the 1st Respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Respondents : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

This writ petition is filed challenging the impugned order passed by the respondents in Appeal order M.P.No.105 of 2024.

2.Mr.G.Nanmaran, learned Special Government Pleader, 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 the Show Cause notice dated 20.04.2023 was issued by the respondents and the 2nd respondent passed an Assessment Order dated 21.06.2023 demanding the tax liabilities. The notices and Assessment Order were uploaded in the GST portal under "View Additional Notices/Order" on 21.06.2023. The order was retrieved from the GST portal only during 1st week of January 2024. Thereafter, petitioner filed Appeal on 12.01.2024 and the same was rejected on the ground that it was not filed within the prescribed time limit under Section 107 (1) of Tamil Nadu Goods and Services Tax Act 2017. The learned counsel further submitted that the limitation under Section 107 (1) of the TNGST Act 2017 for filing appeal starts from 1st week of January 2024 onwards. Therefore, the assessment order passed by the first respondent is arbitrary. Hence, this petition has been filed.

4.The learned Special Government Pleader for the respondents would submit that since there is a delay of 82 days in filing the appeal, the same was dismissed. However, this Court may pass appropriate order directing the respondents for disposal of the appeal filed by the petitioner, the same would be complied with.

5.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and also perused the materials available on record.

6.Taking into consideration the fact that the petitioner came to know about the assessment order only after the bank attachment order was passed by the authorities concerned and thereafter, the petitioner filed an appeal with a delay of 82 days and the reason assigned for not filing the appeal in time, appears to be just and reasonable. Hence, this Court feels it appropriate in the interest of justice, to condone the delay of 82 days in filing the appeal. Therefore, this Court, being satisfied with the reasons assigned by the petitioner towards delay, is inclined to condone the delay of 27 days. Accordingly, this Court passes the following order:-

(i) The impugned rejection order dated 19.08.2024 passed by the 1st respondent is set aside and the delay of 82 days in filing the appeal before the 1st respondent is condonned.

(ii) The 1st respondent is directed to take the appeal on record if the same is otherwise in order and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

(iii) Considering the fact that the petitioner has preferred the appeal against the impugned order and made a pre-deposit of a sum of Rs.5,62,702/-, this Court is of the opinion that the respondents shall de-freeze the bank account of the petitioner. Accordingly, the respondents are directed to instruct the concerned Bank to de-freeze the bank account of the petitioner, immediately upon the receipt of a copy of this order.

7. Accordingly, this writ petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

26.09.2024
(1/3)

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

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To

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GST Appeals, Commercial Tax Office Buildings
Dr.balasundaram Road
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KRISHNAN RAMASAMY.J.,

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