IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30500 of 2024
& W.M.P.Nos.33119 & 33120 of 2024

Tvl.Nithya Cotton Mills,
Rep by Proprietor, Mr.Subramaniam,
No.52, Ayyam Kovil Road,
Samalapuram, Tiruppur,
Tamil Nadu 641 663

... Petitioner

Vs.

1.The Deputy Commissioner (ST)(GST)(Appeal),
Erode and Salem,
No.131, Brough Road,
Commercial Taxes Building, Erode 638 001.

2.The State Tax Officer,
Tiruppur Assessment Circle,
Tiruppur.

... 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 leading to the issuance of appellate order bearing Ref. ROC.No.222/2024/A1 dated 05.04.2024 passed by the 1st respondent herein and quash the same.

For Petitioner	:	Ms.B.Chandrika
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 05.04.2024 passed by the 1st respondent.

2. Mr.V.Prashanth Kiran, learned Government Advocate, 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, an intimation was issued by the respondent on 28.09.2022, for which the reply was filed by the petitioner on 21.10.2022. Thereafter, the show cause notice was uploaded by the respondent in GST Portal. The petitioner, being unaware of the said notice, had failed to file their reply

within time. Subsequently without providing any opportunity of personal hearing, the assessment order dated 12.07.2023 came to be passed and uploaded by the respondent. In the interregnum, the petitioner's father passed away and due to the demise of the petitioner's father, an appeal was preferred against the said assessment order by the petitioner with a delay of 44 days. However, the said appeal was rejected by the respondent vide impugned order dated 05.04.2024 on the aspect of limitation.

4. Further, he would submit that the respondents have no jurisdiction to entertain the condone delay application and hence, 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.

5. In reply, the learned Government Advocate appearing for the respondents would submit that due to the delay of 44 days in filing of appeal, the said appeal was rejected by the 1st respondent vide the

impugned order dated 05.04.2024. Hence, he requests this Court to pass appropriate orders by condoning the delay and directing the 1st respondent to take the appeal on record.

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

7. In the case on hand, according to the petitioner, the assessment order was passed by the 2nd respondent on 12.07.2023. Due to the demise of the petitioner's father, they preferred an appeal against the said assessment order with a delay of 44 days. In such case, the reason provided 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. Accordingly, this Court passes the following order:-

(i) The impugned order dated 05.04.2024 is set aside and the delay of 44 days in filing the appeal before the 1st respondent is hereby condonned.

(ii) 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.

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

18.10.2024

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

1.The Deputy Commissioner (ST)(GST)(Appeal),
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Commercial Taxes Building, Erode 638 001.

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KRISHNAN RAMASAMY.J.,

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