IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.28927 of 2024
and
W.M.P.No.31570 of 2024

M/s.Krishanthini Constructions Private Ltd.,
Rep. by its Managing Director Vijayakumar,
O.d No.192/12, New No.422, Pillaiyar Koil Street,
Kelambakkam, Chengalpet – 603 103. Tamil Nadu. ...Petitioner

Vs.

1. The State Tax Officer,
   Kelambakkam Assessment Circle,
   Commercial Taxes and Registration Department,
   Nandanam, Chennai – 600 035.

2. The Deputy Commissioner [GST – Appeal],
   Chennai 600 002. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records connected with the Impugned Assessment Order passed by the first respondent vide GSTIN:33AAGCK5790G1ZE/2018-2019 dated 27.04.2024 and quash the same and direct the second respondent to permit the petitioner to file the appeal under section 107 of the TNGST Act, 2017, condoning the delay in preferring the present appeal before the appellate authority.

For Petitioner : Mr.N.Lakshmi Priya

For Respondents : Ms.Amirtapoonkodi Dinakaran
Government Advocate (Tax)

ORDER

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

2. Challenging Impugned Assessment Order passed by the first respondent vide GSTIN:33AAGCK5790G1ZE/2018-2019 dated 27.04.2024 and to quash the same and to direct the second respondent to permit the petitioner to file the appeal under section 107 of the TNGST Act, 2017, condoning the delay in preferring the present appeal before the appellate authority, the petitioner has filed the present Writ Petition.

3. The main contention of the learned counsel for the petitioner is that the respondent passed an impugned assessment order dated 27.04.2024 highlighting certain discrepancies in the returns filed by the petitioner. The impugned Oder has been filed without providing the petitioner with a fair and

reasonable opportunity to explain the exemption claimed by the petitioner. The statutory period for filing an appeal has expired on 27.08.2024. The delay in filing the appeal is neither wilful nor wanton and the same was due to certain technical and procedural difficulties. Hence, the present petition.

4. Per contra, the learned Government Advocate appearing for the respondent would submit that as the petitioner has not filed any details to substantiate their claim of exemption from payment of tax, the impugned Order has been passed. Hence, he submitted that the present Writ Petition is liable to be dismissed and liberty may be given to the petitioner to file the appeal.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondent and perused the materials available on record.

6. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it shows that the present issue involved in this Writ Petition is pertaining to whether the petitioner is eligible for claiming exeption from payment of tax and the said aspect was considered by

the respondent and the assessment order came to be passed. As contended by the learned Government Advocate, if at all the petitioner had any grievance, the petitioner has to file an appeal before the Appellate Authority, instead of filing the present Writ Petition before this Court. Therefore, this Court is not inclined to interfere with the order passed by the respondent.

7. In the result, this Writ Petition is dismissed granting liberty to the petitioner to file an appeal before the Appellate Authority within a period of 30 days from the date of receipt of a copy of this order and the appellate authority shall entertain the appeal without insisting on delay aspect, if it is otherwise in order. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2024

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

To
1. The State Tax Officer,
   Kelambakkam Assessment Circle,
   Commercial Taxes and Registration Department,
   Nandanam, Chennai – 600 035.
2. The Deputy Commissioner [GST – Appeal],
   Chennai 600 002.

Krishnan Ramasamy, J.

vrc

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