IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.28930 of 2024 and
W.M.P.Nos.31573 & 31574 of 2024

M/s.Sri Amman Tax,
Rep. by its Proprietor Mr.P.Gughanathan,
No.122, Selvanagar,
Thandamapalayam, Erode – 638 104. ...Petitioner

Vs.

1. The Deputy Commissioner [ST] [GST] [Appeal],
Erode & Salem,
Integrated New Commercial Taxes Building,
3rd Floor, S.F. No.400/1, 7, 8, 46, Pudur 'B' Village,
Erode – 638 001.

2. The Deputy State Tax Office -1,
Kodumudi Assessment Circle, Karur. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, call for the records in the Order passed by the first respondent in Roc.No.2436/2024/A1 and quash the proceeding dated 27.08.2024 passed therein and further direct the first respondent to dispose the appeal filed for the assessment year 2017-2018 on 21.05.2024 on merits after providing opportunity of personal hearing to the petitioner.

For Petitioner : Mr.Reveendran B

For Respondents : Mr.C.Harsha Raj,
Additional Government Pleader (T)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned proceeding passed by the first respondent in Roc.No.2436/2024/A1 dated 27.08.2024 and direct the first respondent to dispose the appeal filed for the assessment year 2017-2018 on 21.05.2024 on merits after providing opportunity of personal hearing to the petitioner.

2. Mr.C.Harsha Raj, learned Additional 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 time of admission stage itself.

3. The learned counsel for the petitioner submitted that the petitioner is a dealer in Textile and registered under the GST Act. During May 2024, the second respondent demanded the petitioner for payment of tax along with interest and penalty. At that time only the petitioner came to know about

passing of the assessment Order. Thereafter, when the petitioner contacted the second respondent, he informed that all the notices were sent to the petitioner through 'Additional Notices Portal'. Since the petitioner was not aware of issuance of notice, the he had no opportunity to participate in the assessment proceedings. Therefore, the second respondent confirmed the proposal. The appeal filed by the petitioner had been rejected by the first respondent on the ground of limitation. It is further submitted that since the petitioner was not aware of the impugned order, he was not able to file the Appeal within the time of limitation. He further submitted that though the impugned assessment order is under challenge in this Writ petition, he requested this Court condone the delay in filing the Appeal before the appellate authority and direct the said authority to pass appropriate orders.

4. Mr.C.Harsha Raj, learned Additional Government Pleader (Tax) appearing for the respondents has stated no objection for condoning the delay and prays for appropriate orders.

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and also perused

the materials available on record.

6. In the present case, it appears that the petitioner was not aware of the impugned order dated 27.08.2024, due to which, there was a delay of 23 days in filing the appeal by the petitioner. Considering the same and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to condone the delay of 23 days in filing the Appeal before the Appellate authority. Accordingly, this Court passes the following order:-

> (i) The order dated 27.08.2024, passed by the first respondent is set aside and the delay of 23 days in filing the appeal before the appellate authority is condoned.
>
> (ii) The first respondent, is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an 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.

30.09.2024

Speaking/Non-speaking order
Index : Yes / No

Neutral Citation : Yes / No
vrc

To

1. The Deputy Commissioner [ST] [GST] [Appeal],
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Krishnan Ramasamy, J.

vrc

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