IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.31007 & 31009 of 2024
and W.M.P.Nos.33614 & 33619 of 2024

Shree Service Center,
Represented by its Managing Partner,
Nithiyanandha,
D.No.165, Lakshmi Nagar,
4 Roads, Omalur, Main Road,
Salem 636 009

... Petitioner in both petitions

Vs.

1.The Assistant Commissioner (ST),
Alagapuram Circle, Salem I,
Salem

2.The Deputy Commissioner (ST)(GST)(Appeals),
Erode and Salem,
Station: Integrated Commercial Taxes,
Building, Room No.233, II Floor,
No.17, Pitchards Road, Salem 7

... Respondents in both petitions

Prayer in W.P.No.31007 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the 1st respondent herein in GSTIN/33ABJFS9811R1ZE/2017-18 dated 13.12.2023 and quash the same.

Prayer in W.P.No.31009 of 2024:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the 2nd respondent herein in ROC.No.1608/A1/2024 dated 19.08.2024 and quash the same.

For Petitioner
in both petitions : Ms.Siri Chandana K

For Respondent
in both petitions : Mr.T.N.C.Kaushik,
Additional Government Pleader

COMMON ORDER

The writ petition in W.P.No.31007 of 2024 has been filed challenging the impugned assessment order dated 13.12.2024 and the writ petition in W.P.No.31009 of 2024 has been filed challenging the impugned rejection order dated 19.08.2024.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents in both the petitions. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, the *ex parte* impugned assessment order dated 13.12.2023 came to be passed by the respondent, in violation of principles of natural justice, without providing any opportunity of personal hearing to the petitioner. However, being unaware of the said impugned assessment order, the petitioner had failed to file their appeal in time. Hence, there was a delay of 49 days in filing the appeal, due to which, the respondents had rejected the appeal filed by the petitioner on the aspect of limitation vide order dated 19.08.2024. Therefore, she requests this Court to pass appropriate orders and condone the delay of 49 days in filing the appeal.

4. In reply, the learned Additional Government Pleader appearing for the respondents had accepted the submissions made by the petitioner and requests this Court to condone the delay and pass appropriate order to the respondents for disposal of the appeal filed by the petitioner.

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

6. In the case on hand, initially, an *ex parte* impugned assessment order was passed by the 1st respondent on 13.12.2023. Thereafter, being unaware of the said assessment order, the petitioner has failed to file their appeal within the prescribed time limit, due to which, there was a delay of 49 days in filing the appeal. However, the reasons assigned by the petitioner 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 both the learned

counsel, this Court is inclined to condone the delay in filing the appeal by the petitioner. Accordingly, this Court passes the following order:-

> (i) Accordingly, the rejection order dated 19.08.2024 passed by the 2nd respondent is set aside and the delay of 49 days in filing the appeal before the 2nd respondent is condonned.
>
> (ii) The 2nd 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, the writ petition in W.P.No.31009 of 2024 is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

8. Since this Court has condoned the delay in filing the appeal against the assessment order dated 13.12.2023, the writ petition in W.P.No.31007 of 2024, which was filed against the assessment order, will become infructuous.

9. In view of the above, the writ petition in W.P.No.31007 of 2024 is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

28.10.2024

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

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