IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30814 of 2024
& W.M.P.Nos.33417 & 33418 of 2024

Hexa Elevators,
Rep by its Proprietor, R.Sujithkumar,
2nd Floor, 238/5, Rohini Flats Jawaharlal Nehru Road,
Anna Nagar West Extension, Chennai 600 101.

... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST-Appeal, Chennai I,
CT Annexure Building, 3rd Floor,
No.1, Greams Road, Chennai 600 006.

2.The Assistant Commissioner (ST),
Koyambedu Assessment Circle,
Anna Nagar Division, Integrated CT Building,
No.4/109, Chennai Bangalore Highways, Varadharajapuram,
Nazarathpet, Poonamallee 600 123.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Ref.No.ZD330323024453X dated

06.03.2023 and the order dated 25.04.2024 made in Rc.No.1441/2024 GSTIN: 33ETHPS2021B1Z7 passed by the 1st respondent and consequently, direct the respondent to give an opportunity of personal hearing quash the same.

For Petitioner	:	Mr.P.Suresh Babu
For Respondent	:	Mr.T.N.C.Kaushik, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned orders dated 06.03.2023 and 25.04.2024 passed by the respondents.

2. Mr.T.N.C.Kaushik, 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 admission stage itself.

3. The learned counsel for the petitioner would submit that initially, the impugned assessment order was passed and uploaded in the GST Portal by the 2nd respondent on 06.03.2023. However, the petitioner

came to know about the said assessment order only at the later point of time and hence, they had preferred an appeal, against the said assessment order, only on 16.03.2024, i.e., with a delay of 8 months and 9 days. However, the said appeal was rejected by the respondents vide impugned order dated 25.04.2024 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 Additional Government Pleader appearing for the respondents had strongly opposed for allowing this petition and would submit that due to the delay of 8 months and 9 days in filing of appeal, the said appeal was rejected by the 1st respondent vide the impugned order dated 25.04.2024. Further, if this Court is inclined to condone the delay, he requested this Court to direct the petitioner to pay 15% of disputed tax amount to the respondent.

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

7. In the case on hand, though the impugned assessment order was passed by the 2nd respondent on 06.03.2023, the petitioner came to know about the said assessment order only after a period of 8 months, due to which, they had preferred an appeal only on 16.03.2024, i.e., with a delay of 8 months and 9 days. Thereafter, the said appeal was rejected by the 2nd respondent vide impugned order dated 25.04.2024 on the aspect of limitation. 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 25.04.2024 is set aside and the delay of 8 months and 9 days in filing the appeal before the 1st respondent is hereby condonned.

(ii) The 1st respondent is directed to take the appeal on record, if it is otherwise in order, 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.

24.10.2024

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

To

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KRISHNAN RAMASAMY.J.,

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