IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31468 of 2024
& W.M.P.Nos.34186 & 34187 of 2024

S.Sundaram,
Proprietor of SRS Wholesale Kaddai,
No.157A/1, Dharmapuri Main Road,
Omalur, Salem, Tamil Nadu 636 455

... Petitioner

Vs.

The State Tax Officer (FAC),
Mettur Assessment Circle,
Mettur.

... 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 on the files of the respondent herein in GSTIN/33BASPS3629E1ZG/2017-18 dated 29.12.2023 and quash the same.

For Petitioner : Ms.K.Siri Chandana

For Respondent : Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.12.2023 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, 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, the impugned assessment order was passed by the respondent on 29.12.2023. 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 22.06.2024, i.e., with a delay of 54 days. However, the said appeal was rejected by the respondents vide order dated 19.08.2024 on the aspect of

limitation as the respondent has no jurisdiction to entertain the condone delay application.

4. Further, though he had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to condone the delay in filing the appeal and grant one last opportunity to present their case before the concerned Appellate Authority and hence, he requests this Court to pass appropriate orders.

5. In reply, the learned Government Advocate appearing for the respondents requests this Court to pass any appropriate orders with regard to the filing of appeal.

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

7. In the case on hand, though the impugned assessment order was passed by the respondent on 29.12.2023, the petitioner came to know

about the said assessment order only at the later point of time, due to which, they had preferred an appeal only on 22.06.2024, i.e., with a delay of 54 days. Thereafter, the said appeal was rejected by the Appellate Authority vide order dated 19.08.2024 on the aspect of limitation.

8. Today, it was submitted by the learned counsel for the petitioner that the petitioner has already filed an appeal against the impugned assessment order dated 29.12.2023 passed by the respondent and hence, he has restricted his relief and requested this Court to condone the delay in filing the appeal since it will be sufficient to meet out the case of the petitioner.

9. Further, this Court is of the view that the reason provided for non-filing of appeal within the prescribed time appears to be genuine. Hence, 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.

10. In view of the above, though this petition has been filed

challenging the impugned order dated 29.12.2023, considering the submissions made by the petitioner, this Court passes the following order:-

(i) The delay of 54 days in filing the appeal before the said Appellate Authority is hereby condonned and the rejection order dated 19.08.2024 passed by the Appellate Authority/Deputy Commissioner (ST)(GST(Appeals) is set aside.

(ii) The Appellate Authority 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.

28.10.2024

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

nsa

To

The State Tax Officer (FAC),
Mettur Assessment Circle,
Mettur.

KRISHNAN RAMASAMY.J.,

nsa

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