IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.10.2024
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.31243 of 2024
and
W.M.P.Nos.33880 & 33881 of 2024

Tvl. Mail Hosieries,
rep. by its Partner,
Mr.S.Saravanan ...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 – 638 002.

2. The State Tax Officer,
Tiruppur North 2 Assessment Circle,
42, New Commercial Tax Building,
3rd Floor, Kumaran Road,
Tiruppur -641 601. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the first respondent in ROC .No.3419/A1 dated 27.08.2024 and to quash the same and to condone the delay of 62 days in filing Appeal beyond statutory period and to direct the first respondent to admit the

Appeal.

For Petitioner : Mr.P.R.Kumar
For Respondents : Mr .G.Nanmaran
Special Government Pleader (T)

Order

With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the first respondent dated 27.08.2024 and to quash the same and to condone the delay of 62 days in filing Appeal and consequently, to direct the first respondent to admit the Appeal.

3. Mr.P.R.Kumar, learned counsel for the petitioner would submit that the second respondent has uploaded the pre-assessment notice and all other subsequent communications/notice calling for petitioner's objections only through the online portal; that since the petitioner is a small dealer in Hosieries and not well accustomed with the new procedure adopted under the new GST Act, the petitioner failed to note those notices and also could not submit reply to the notices, however, the second respondent, passed the assessment order dated 30.01.2024 and also issued garnishee notice to the petitioner's banker, viz., State Bank of India, dated 30.07.2024; that aggrieved against the said assessment order, the petitioner ought to have preferred an Appeal within 120 days, however, the petitioner filed the same with a delay of 62 days, i.e. on 31.07.2024, the reason for the delay is due to considerable ambiguity in the procedure to be adopted under the new enactment, therefore, the delay is neither willful nor wanton, but, the first respondent, refused to condone the delay and entertain the Appeal and vide the impugned order dated 27.08.2024, dismissed the Appeal. Challenging the same, the present Writ Petition is filed.

3.1 Therefore, the learned counsel prayed that delay may be condoned and the Appellate Authority may be directed to take up the Appeal on record and dispose of the same on merits. Further, it is prayed that since the petitioner has already deposited 10% of the disputed tax, the garnishee notice issued by the second respondent to the Bank may directed to be lifted.

4. Mr .G.Nanmaran, learned Special Government Pleader (T) for the respondents fairly submitted that since the petitioner has already deposited

10% of the disputed tax, the delay may be condoned and suitable orders may be passed with regard to the disposal of the Appeal.

5. Taking into consideration of the submissions made on either side coupled with the further facts the reasons for the delay in filing the Appeal appears to be genuine and the petitioner had already deposited 10% of the disputed tax, this Court is inclined to dispose of the Writ Petition with the following directions/orders:-

i) The Delay in filing the Appeal is condoned.

ii) The first respondent/Appellate Authority is directed to take up the Appeal on file and dispose the same in accordance with law.

iii) Though the petitioner's Banker was served with a garnishee notice dated 30.07.2024, by the second respondent, considering the fact that the petitioner has already deposited 10% of the disputed tax, appropriate orders shall be passed by the Authority concerned towards de-freezure of the petitioner's bank account forthwith.

6. The Writ Petition is disposed of accordingly. No costs.. Consequently, connected Miscellaneous Petitions are closed.

21.10.2024

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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