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W.P.No.32188 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.32188 of 2024

and

W.M.P.Nos.34946 & 34947 of 2024

Als Pipe Enterprises,
rep. By its Partner, AL Singaram.

...Petitioner

Vs.

1. The Deputy Commissioner (ST) (FAC)
Goods and Service Tax Appeal-Coimbatore,
Commercial Taxes Building.

2. The Assistant Commissioner (ST)
Gandhipuram Assessment Circle,
Coimbatore District.

...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 order passed by the first respondent made in M.P.No.2257/2024 dated 13.08.2024 arising out of demand order made in GSTIN : 33AACFA3324MIZR/2017-18 dated 14.02.2024 and made in Reference No.ZD3302241261150 dated 21.02.2024 passed by the second respondent and to quash the same as arbitrary and consequently, to direct the respondent to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu



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For Respondents : Mr.T.N.C.Kaushik,
Additional 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 13.08.2024 arising out of demand order dated 14.02.2024 made in Reference No.ZD3302241261150 dated 21.02.2024 passed by the second respondent and to quash the same as arbitrary and consequently, to direct the respondents to give an opportunity of personal hearing.

3. Mr.P.Suresh Babu, learned counsel for the petitioner would submit that as against the impugned order 14.02.2024 passed by the second respondent, the petitioner ought to have filed Appeal before the Appellate Authority within three months, i.e. on or before 21.05.2024, however, since the petitioner was not aware of the impugned order passed against them, only when the respondent-Department took coercive action to collect the



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amount arising out of the impugned demand, the petitioner came to know of the impugned order, immediately thereafter, the petitioner filed Appeal before the Appellate Authority, however, since there happened to be a delay of 46 days, which is much beyond the condonable period, the Appellate Authority rejected/dismissed the Appeal. Hence, the present Writ Petition.

3.1 The learned counsel would submit that the delay is neither wilful nor wanton, but due to the fact that the petitioner was totally unaware of the impugned orders dated 14.02.2024 and 21.02.2024, as to on what date, there were passed and for what reasons and hence, prayed that the 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.

4. Mr.T.N.C.Kaushik, the learned Additional Government Pleader (T) who takes notice for the respondents fairly submitted that the delay may be condoned and suitable orders may be passed with regard to the disposal of the Appeal.



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5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. Taking into consideration of the submissions made on either side and the reasons assigned by the petitioner for the delay in filing the Appeal appears to be genuine, 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 filed by the petitioner on file and dispose the same in accordance with law.

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

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Krishnan Ramasamy,J.,



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