IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.10.2024
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.32292 of 2024
and
W.M.P.Nos.35077 & 35078 of 2024

M/s. Vaigai Agri Tech,
rep. by its Partner J.R. Karthik. ...Petitioner

Vs.

1. The Deputy Commissioner (ST) (GST) (Appeal)
   Erode & Salem,
   Station : Integrated Commercial Taxes Building,
   Room No.233, II Floor, No.17,
   Pitchards Road, Salem – 636 007.

2. The State Tax Officer,
   Kondalampatty Assessment Circle,
   3rd Floor, Integrated Commercial Taxes Building,
   Pitchards Road, Hasthampatty, Salem – 636 007. ...Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the order dated 30.12.2023 passed by the second respondent in his proceedings with Ref. No.GSTIN : 33AAOFV1872H1ZW/2017-18 and set aside the same.

For Petitioner : Mr. Balaji Thriumoothy

For Respondent : 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 dated 30.12.2023 passed by the second respondent and to set aside the same.

3. Mr. Balaji Thriumoothy, learned counsel for the petitioner would submit that the petitioner preferred an Appeal against the impugned assessment order dated 30.12.2023 and the summary of the order in Form DRC-07 dated 29.04.2024, thereafter, since the Adjudicating Authority had issued new DRC-07 for the same impugned order, and also orally instructed the petitioner to file new Appeal on the second DRC-07 for the same impugned order dated 30.12.2023, however, since there is no mechanism under the GST Act and in the common portal to transfer an Appeal from one DRC-07 to another, the petitioner has re-filed the Appeal against the second Form DRC-07. Therefore, the learned counsel contended that since the new

DRC-07 is based on the same impugned order dated 30.12.2023, the petitioner's appeal has to be considered as filed within the condonable period, however, the first respondent/Appellate Authority without properly appreciating the aforsaid aspects, dismissed the Appeal as time barred. Therefore, the learned counsel 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.

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.

29.10.2024

sd

Index : yes/no
Neutral Citation : yes/no

To

1. The Deputy Commissioner (ST) (GST) (Appeal)
   Erode & Salem,
   Station : Integrated Commercial Taxes Building,
   Room No.233, II Floor, No.17,
   Pitchards Road, Salem – 636 007.

2. The State Tax Officer,
   Kondalampatty Assessment Circle,
   3rd Floor, Integrated Commercial Taxes Building,
   Pitchards Road, Hasthampatty, Salem – 636 007.

Krishnan Ramasamy,J.,

sd

W.P.No.32292 of 2024

29.10.2024