IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32077 of 2024
and
W.M.P.No.34839 of 2024

S.M.Enterprises
Represented by its Proprietor M.Dilip Kumar
No.3/27, Erullipattu Village,
Allinzhivakkam Post, Ponneri,
Tiruvallur, Tamil Nadu-600067. ... Petitioner

Vs.

1. The Deputy Commissioner (ST)(FAC)
   GST-Appeal Chennai-1,
   Annex Building, 3rd Floor,
   No.1, Greams Road, Chennai-600006.

2. The State Tax Officer,
   Manali Assessment Circle,
   Integrated Commercial Taxes Building,
   No.32, Elephant Gate Bridge Road,
   Vepery, Chennai- 600003. ... 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 impugned order of the 1st Respondent in R.C.No.3266/2024/A1 dated 30.08.2024 and quash the same and direct the 1st respondent to number the Appeal.

For Petitioner : Mr.M.Hariharan

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed challenging the impugned order dated 30.08.2024 passed by the 1st respondent and to direct the 1st respondent to number the appeal.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the Respondent. 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

Assessment Order was passed by the 2nd Respondent against the Petitioner on 30.12.2023, demanding tax along with interest and liability for the Assessment Year 2017-2018. Being aggrieved the Petitioner filed an Appeal before the 1st Respondent on 13.05.2024, with a delay of 13 days and the 1st Respondent rejected the Appeal on 30.08.2024 stating that he does not have power to condone the delay in filing the Appeal, challenging which the present Writ Petition has been filed.

4. The learned counsel for the Petitioner further submitted that since the notices as well as the impugned order were uploaded in the GST Portal of the Respondent, the Petitioner was not aware of the same. and came to know of the impugned order belatedly and there was a delay of 13 days in filing the Appeal. He therefore requested this Court to condone the delay of 13 days in filing the Appeal and the 1st Respondent may be directed to take the Appeal on file.

5. The learned Additional Government Pleader (Taxes) appearing for the respondents has stated no objection for condoning the delay and prays for appropriate orders.

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

7. In the present case, it appears that since the impugned order dated 30.12.2023, was uploaded in the GST Portal, the petitioner was not aware of the same due to which, there was a delay of 13 days in filing the appeal by the petitioner. Considering the same and in view of the settled proposition of law that when substantial justice is pitted against technical consideration, credence should be given to the substantial justice, this Court is inclined to condone the delay of 13 days in filing the Appeal before the Appellate authority. Accordingly, this Court passes the following order:-

(i) The order dated 30.08.2024, passed by the 1st Respondent is set aside and and the delay of 13 days in filing the appeal before the said authority is condoned.

(ii) The Appellate authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an 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
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To

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KRISHNAN RAMASAMY.J.,

arr

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