IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.37915 of 2024

Tvl.Hytek Industries,
Represented by its Authorised Signatory,
Mr.D.K.Goyal,
S-38, Greater Kailash-II,
Second Floor, New Delhi-110 048. ... Petitioner

Vs.

Deputy Commissioner (CT),
Appeal, Chennai-I,
No.1, Greams Road, Chennai-600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the Respondent dated 18.11.2024 passed in Proc.No.381/2024/A1 and quash the same and further direct the respondent to take on file the petitioner appeal dated 20.09.2019 and decide the same on merits.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

ORDER

The present writ petition is filed challenging the order dated 18.11.2024 whereby the appeal filed by the petitioner against the order dated 18.04.2018 for the period 2010-11 was rejected on the premise that the defects pointed out in the appeal was not rectified and represented within the prescribed period under Rule 14(3) of the Tamil Nadu Value Added Tax Rules, 2007(hereinafter referred to as “the TNVAT Rules”).

2. The petitioner suffered an order of assessment for the assessment year 2010-11 on 18.04.2018 under the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as “the Act”) and Central Sales Tax Act, 1956 respectively. The said order was the subject matter of challenge in W.P.Nos.18672 and 18675 of 2019 which was disposed of on 03.07.2019 preserving the petitioner's right to file an appeal. Pursuant to the above order of this Court, the petitioner filed an appeal on 20.09.2019, however the said appeal was returned as it was found to suffer from the following defects:

i) The original copy of assessment order is not enclosed.

ii) The date of filing of the writ petition in the High Court should be filed to ascertain if there is any delay in filing the appeal petition as per the directions of this Court.

iii) The proof of payment of 25% of disputed tax should be filed.

3. The petitioner resubmitted the appeal papers on 24.10.2024, however the same stood rejected by placing reliance upon Rule 14(3) of the TNVAT Rules which provides that the appeal papers is to be represented within 10 days from the date of return of the appeal for rectification of defect. Importantly, the proviso to Rule 14(3) of the Act also enables the authority to condone the delay beyond the period of 10 days, if it is satisfied that there was sufficient cause for not representing the appeal with the time stipulated.

4. It is submitted that pre-deposit of 25% of the disputed tax was not complied with inasmuch as the petitioner was going through a severe financial crisis and the proceedings were initiated under the SARFAESI Act. It is only in view of the above reasons that the petitioner was unable to represent the appeal within 10 days from the date of return of the appeal papers.

5. The learned counsel for the petitioner would now submit that they are ready and willing to pay 50% of the disputed tax and that the appellate authority may be directed to entertain the appeal and pass orders on merits.

6. The learned counsel for the Respondent would submit that in respect of the balance, the petitioner may be directed to furnish bank guarantee to secure

the interest of the Revenue, agreed to by the learned counsel for the petitioner.

7. In view thereof, this Court is inclined to dispose of the writ petition granting liberty to the petitioner to represent the appeal papers within a period of 10 days from the date of receipt of a copy of the order after duly rectifying the defects. The petitioner would also deposit 50% of the disputed taxes and bank guarantee for the remaining 50% within a period of two weeks from the date of receipt of a copy of this order. On complying with the above conditions, the Respondent shall take on file the appeal filed by the petitioner and entertain the same and pass order on merits. If, for any reason, the petitioner fails to rectify the defects or fails to comply with the above conditions within 10 days and two weeks respectively from the date of receipt of a copy of this order, the impugned order would stand automatically restored.

8. Accordingly, the writ petition stands disposed of. No costs.

20.12.2024

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
mka

To:
Deputy Commissioner (CT),
Appeal, Chennai-I,
No.1, Greams Road,
Chennai-600 006.

MOHAMMED SHAFFIQ, J.

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