IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.37895 of 2024
and
W.M.P.Nos.40973 and 40974 of 2024

Ashok Leyland Defence Systems Limited,
Represented by its Director N.Pandi,
6th Floor, No.1 Sardar Patel Road,
Guindy, Chennai,
Tamil Nadu 600 032. ... Petitioner

Vs.

1.The Deputy Commissioner (ST),
GST Appeals-II,
PAPJM Buildings, Greams Road,
Chennai, Tamil Nadu 600 006.

2.The State Tax Officer,
Adyar Assessment Circle,
2nd Floor, Room No.215 & 244,
Integrated Building for Commercial Taxes and Registration
Department, Nandanam, Chennai,
Tamil Nadu 600 035. ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records in the impugned order dated 23.10.2024 with reference AD330424004543L in the files of the first respondent and quash the same as manifestly arbitrary, void, contrary and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner : Mr.R.Suryaa

For Respondents : Mr.V.Prashanth Kiran,
Government Advocate.

ORDER

The present writ petition is filed challenging the order of the Appellate Authority dated 23.10.2024 whereby the appeal preferred by the petitioner was rejected on the ground that there was delay in submission of the appeal.

2. It is submitted by the learned counsel for the petitioner that the order of adjudication came to be passed on 31.12.2023. Aggrieved by the same, the petitioner preferred an appeal on 01.04.2024. According to the petitioner, the date on which the order of adjudication dated 31.10.2023 ought to have been excluded while reckoning limitation in terms of Section 12 of the Limitation Act, 1963. However, if that had been excluded, the appeal filed by the petitioner on 01.04.2024 would not be barred by limitation. It is submitted by the learned counsel for the petitioner that since they were under the bonafide view that the appeal was within the time viz., three months from the date of receipt of the order, they did not file any application to condone the delay.

3. It is further submitted that the Appellate Authority, however, rejected the appeal on the premise that there was delay in submission of the appeal, without even putting the petitioner on notice. If the Appellate Authority had only put the petitioner on notice that the appeal was liable to be rejected on the ground of delay, the petitioner would have either explained that there was no delay in submission of the appeal or would have filed an application to condone the delay. Failure to put the petitioner on notice, thus disabled the petitioner from submitting / offering his explanation or filing a petition to condone the delay. It was thus submitted that the impugned order stands vitiated.

4. The learned counsel for the respondents would submit that the matter may be remanded back to the Appellate Authority who would issue notice to the petitioner and pass orders after affording the petitioner an opportunity of hearing.

5. In view thereof, the impugned order dated 23.10.2024 is set aside and the matter is remanded back to the Appellate Authority. The Appellate Authority shall issue notice to the petitioner and afford the petitioner a reasonable opportunity of

hearing to explain as to how the appeal is not barred by limitation. If for any reason the Appellate Authority is of the view that the appeal is, in fact, barred by limitation, it is always open to the petitioner to file an application seeking condonation of delay which would be examined and orders would be passed in accordance with law.

6. Accordingly, the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

16.12.2024

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

To

1.The Deputy Commissioner (ST),
GST Appeals-II,
PAPJM Buildings, Greams Road,
Chennai, Tamil Nadu 600 006.

2.The State Tax Officer,
Adyar Assessment Circle,
2nd Floor, Room No.215 & 244,
Integrated Building for Commercial Taxes and Registration
Department, Nandanam, Chennai,
Tamil Nadu 600 035.

MOHAMMED SHAFFIQ, J.

shk

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