BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.5172 of 2024
and W.M.P(MD)Nos.4966 and 4967 of 2024

Tvl.Ranjini Enterprises,
Rep. By its Proprietor,
Mr.K.Shenbagaraj,
No.92, Tooveypuram 2nd Street,
Thoothukudi. ...Petitioner

Vs.

The State Tax Officer,
Tuticorin II Assessment Circle,
Tuticorin ...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, in the nature of a writ of Certiorari calling for records pertaining to the impugned proceedings passed by the respondent in his proceedings in Form GST ASMT-13 GSTIN: 33APFPSO207KIZ2/2022-23 and Form GST DRC-07 Reference No: ZD3306230410306 dated 12.06.2023 and quash the same as it is illegal and the same is passed by grossly violating the principles of natural justice.

For Petitioner : Mr.A.Satheesh Murugan
For Respondent : Mr.A.Baskaran
Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the impugned proceedings passed by the respondent in his proceedings in Form GST ASMT-13 GSTIN: 33APFPSO207KIZ2/2022-23 and Form GST DRC-07 Reference No: ZD3306230410306 dated 12.06.2023.

2.Mr.A.Baskaran, learned Additional Government Pleaders takes notice for the respondent.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. The brief facts, which are necessary for disposal of this Writ Petition, are as follows:

i)The petitioner is a tax payer and he is filing monthly returns in time. But due to heavy financial crisis and there are no outward supplies in the month of April 2023, (which is ought to have been filed on or before 20.05.2023), the petitioner has filed GSTR-1 on 29.08.2023 and GSTR-3B on 04.09.2023 with late fees and interest as required under the TNGST/CGST Act, 2017 which was also accepted by the respondent.

ii) In the meanwhile, on 12.06.2023, the respondent has passed a best of judgment assessment under Section 62 of the TNGST/CGST Act, 2017 for non-filing of April-2023 monthly returns by the petitioner. Since the said order was communicated by the respondent through GSTN portal, the petitioner has no knowledge about the same and hence he is unable to take further steps regarding the same. Only on 07.02.2024, the petitioner came to know that a system generated best of judgment order is passed by the respondent on 12.06.2023 for non-filing of April 2023 monthly return. As per the prevailing rules at the relevant point of time, if the petitioner fails to file returns within a period of 73 days, the order of best of judgment would be withdrawn. The petitioner has not availed that opportunity and he has paid the tax only on 29.08.2023.

Hence, the petitioner is before this Court.

5. The learned counsel for the petitioner submitted that the amendment of the above said Act came into force with effect from 01.10.2023 and by that amendment, period of 30 days has been extended by 120 days. However, the petitioner could not avail any benefits of the delay in submitting the returns on 29.08.2023.

6. The learned counsel for the petitioner would further submit that actual tax liable to be paid by the petitioner is only Rs.2 lakhs, which the petitioner has paid belatedly in the month of August 2023 and best of judgment has been arrived at Rs.5 lakhs. Though the petitioner has filed his returns in the month of August 2023, which has not been considered.

7. The learned counsel for the petitioner has also relied on the order passed by this Court in W.P(MD)Nos.34770, 34774 and

34777 of 2023 dated 14.12.2023, wherein this Court has permitted the tax payer to file an application to condone the delay in filing the returns within a period of 15 days and also directed the respondents to consider the same.

8. The learned Additional Government Pleader appearing for the respondent would submit that in the present case, the returns were not filed by the petitioner within the prescribed time limit. Hence, he prays for dismissal of this petition.

9. This Court has carefully considered the rival submissions made on either side and perused the materials available on record.

10. Section 62(2) of the GST Act prescribed a limitation of 30 days. Legislature thought it fit that the period of 30 days may not be sufficient and therefore, limitation period has been a extended upto 120 days with effect from 01.10.2023. the period by way of amendment with effect from 01.10.2023. But some of the traders prior to this period are not eligible for this benefit. The petitioner has also made out a case that actual tax liable to be paid by the petitioner is only Rs.2 lakhs which the petitioner has paid belatedly in the month of August 2023 and best of judgment has been arrived at Rs.5 lakhs.

11. Therefore, this Court is inclined to permit the petitioner to file an application to condone the delay and the same shall be considered sympathetically by the respondent in the light of the order passed by this Court in W.P.Nos.34770, 34774 and 34777 of 2023 dated 14.12.2023.

12. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

05.03.2024

Index : Yes / No
NCC : Yes / No
CM

To,
The State Tax Officer,
Tuticorin II Assessment Circle,
Tuticorin
Tiruchirapallai, Tamil Nadu – 620 007.

B.PUGALENDHI, J.

CM

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