BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.8496 of 2024
and
W.M.P.(MD) No.7696 of 2024

Tvl.Antony & Sons,
Represented by its Proprietor,
V.Antony, S/o.Varuvel,
3-26C, Near Govt. H.S. School,
Thalakulam, Kanniyakumari,
Tamil Nadu 629 802. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The State Tax Officer,
Commercial Taxes Office,
Thuckalay – 2 Assessment Circle,
Kalkulam Taluk, Valvachagostam,
Kanniyakumari District – 629 158.

3.The Appellate Deputy Commissioner (GST),
Commercial Taxes Office,
South High Ground Road,
Palayamkottai,
Thirunelveli District – 627 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order-in-original of the second respondent in GSTIN:33BWHPA3915L1ZO/2017-18 dated 14.10.2023 and quashing the same and consequently directing to re-do the assessment afresh after giving due opportunity.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.J.K.Jeyaselan
Government Advocate

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ORDER

The petitioner is aggrieved by the impugned order-in-original dated 14.10.2023 passed by the second respondent in GSTIN: 33BWHPA3915L1ZO/2017-18.

2. The order was passed without the petitioner being heard. Notice was served only in GST web portal. The case of the petitioner is that the intimation sent to the petitioner went unnoticed and therefore, the petitioner failed to notice the proceedings of the impugned order dated 14.10.2023.

3. It is further submitted that the petitioner had filed an appeal before the third respondent Appellate Commissioner under Section 107 of the TNGST Act, 2017 on 12.03.2024 long after the expiry of condonable period of limitation under Section 107 of the TNGST Act, 2017. The learned counsel for the petitioner submits that the appeal has also been rejected by the third respondent Appellate Commissioner *vide* communication dated 14.03.2024 on the ground that it is beyond the condonable period of limitation.

4. The learned Government Advocate for the respondents submits that this Writ Petition is devoid of merits and that the issue attained finality in view of dismissal of the appeal filed by the petitioner, on the ground of limitation. Hence, he prayed for dismissal of the present Writ Petition.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

6. Although the petitioner has been negligent in not participating in the proceedings before the second respondent and filing the appeal before the third respondent beyond the statutory period of limitation, I am of the view that a discretion can be exercised in favour of the petitioner by directing the third respondent Appellate Commissioner to dispose of the appeal filed by the petitioner on merits as the petitioner may have a good case against the impugned assessment order that was passed on 14.10.2023 in GST web portal.

7. Under these circumstances, this Writ Petition is disposed of by directing the third respondent to number and dispose of the appeal filed by the petitioner on 12.03.2024 which stood rejected on 14.03.2024, on merits and in accordance with law, as expeditiously as possible, preferably, within a period of 60 days from the date of receipt of a copy of this order. Needles to state, before passing the order, the petitioner shall be heard. No costs. Consequently, connected Miscellaneous Petition is closed.

03.04.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
JEN

Copy To:

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C.SARAVANAN, J.

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