BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.12504 of 2024
and
W.M.P.(MD) Nos.11159 & 11160 of 2024

M/s.St.Joseph Blue Metal,
Represented by its Proprietor Maria Lucas,
398/5, Chunnaparai Konam,
Villukuri, Kanniyakumari – 629 810. ... Petitioner

Vs.

1.The Deputy Commissioner(GST),
1st Floor, Commercial Taxes Building,
South High Ground Road,
Palayamkottai, Tirunelveli – 627 002.

2.State Tax Officer,
O/o.the State Tax Office,
Thuckalay-2 Assessment Circle,
Department of Commercial Taxes,
Nagercoil – 629 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the ZD330424128332U dated 18.04.2024, impugned order, passed by the first respondent and quash the same as void and illegal and thereby direct the first respondent to allow the appeal on the basis of the documents submitted by the petitioner along with material evidences available.

For petitioner : Mr.B.Charmurugan
for M/s.Char Murugan Law Associates

For respondents : Mr.R.Suresh Kumar
Additional Government Pleader

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ORDER

Heard learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

2. The petitioner is before this Court against the impugned order dated 18.04.2024 passed by the first respondent/Appellate Authority under Section 107 of the TNGST Act, 2017.

3. The petitioner had suffered on adverse orders in the hands of the second respondent on 10.04.2023 for the assessment year 2018-19.

4. According to the petitioner, the petitioner received the aforesaid order only on 23.10.2023 and the petitioner filed Appeal before the office of the

Appellate Commissioner on 31.03.2024, which is also within condonable period of limitation under Section 107 of the TNGST Act, 2017.

5. The learned Additional Government Pleader for the respondents would submit that there is no merits in the challenge of the impugned order rejecting the petitioner's appeal, which has been filed beyond the period of limitation in the light of the decision of the Hon'ble Supreme Court in the case of ***Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others*** reported in ***(2008) 3 SCC 70*** and this Writ Petition is liable to be dismissed.

6. Considering the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents, the petitioner deserves fair chance to went out his grievances against the impugned order dated 18.04.2023 subject to the petitioner depositing 25% of the disputed tax, as pre-deposit, as against 10% that is contemplated under Section 107 of the TNGST Act, 2017.

7. Subject to the compliance and reporting compliance before the first

respondent, the appeal shall be numbered and listed for the final hearing before the Appellate Authority, who shall, thereafter, take up the appeal for disposal, on merits and in accordance with law as expeditiously as possible, preferably, within a period of nine months thereafter.

8. It is made clear that if the petitioner failes to deposit 25% of the disputed tax through Electronic Cash Register within a period of 30 days from today, the appeal shall not be placed by the Deputy Commissioner (GST) before the Appellate Authority.

This Writ Petition is disposed of, with above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No **13.06.2024**
Internet : Yes / No
apd

To

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2.State Tax Officer,
O/o.the State Tax Office,
Thuckalay-2 Assessment Circle,
Department of Commercial Taxes,
Nagercoil – 629 001.

C.SARAVANAN, J.

apd

W.P.(MD) No.12504 of 2024

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