BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.15345 of 2024
and
W.M.P.(MD) No.13443 of 2024

M/S.A1235 Madurai Taluk Agricultural
Producers Coop Marketing Society,
represented by its General Manager,
M.Murugesan ... Petitioner

/vs./

1.The State Tax Officer (ST),
West Veli Street Assessment Circle,
Commercial Tax Buildings,
Madurai.

2.The Appellate Deputy Commissioner (ST),
GST Appeals, Commercial Tax Buildings,
Madurai-20. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in GSTIN:33AAAAA9671J1ZN/2017-18 dated 2.11.2023 and to quash the same as illegal, arbitrary, wholly without jurisdiction and direct the 1st respondent to issue notice to the petitioner than pass an assessment order afresh after affording an sufficient opportunity within such time as may be directed by this Court.

For Petitioner : Mr.S.Karunakar
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard Mr.S.Karunakar, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondents.

2.The petitioner has challenged the impugned assessment order dated 02.11.2023 passed for the assessment year 2017-18. The petitioner is a registered Society under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner is engaged in sale of grocery items received from the Tamil Nadu Civil Supplies Corporation and claims to sell the items without profit motive.

3.It is submitted that although the petitioner had received notice in DRC 01, the petitioner could not reply to the same, as the accounts were yet to be finalized by the Tamil Nadu State Accounting and Taxation Services Co-operative Society and therefore, the first respondent has proceeded to pass the impugned order by adding 10% to the gross profit.

4.It is submitted that the petitioner had filed a statutory appeal under Section 107 of the GST Act, 2017 before the Appellate Commissioner on 09.04.2024, which was beyond the condonable period of limitation by 30 days. Under these circumstances, the Appellate Authority has rejected the appeal on the ground of limitation on 06.05.2024.

5.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents and considering the status of the petitioner, which is merely engaged in public distribution service for a marginal profit on the supplies made to it by the Tamil Nadu Civil Supplies Corporation, I am of the view that the petitioner can be given a liberty to pursue the remedy before the Appellate Commissioner, although the appeal has been filed belatedly.

6.Under these circumstances, I am inclined to dispose of this writ petition by directing the second respondent to dispose of the petitioner's appeal on merits and in accordance with law without reference to the limitation as expeditiously as possible, considering the fact that the petitioner has also deposited 10% of the disputed tax. It is needless to state that the petitioner shall also be heard before fresh orders are passed.

7.The Writ Petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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