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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17549 of 2024
and
W.M.P.(MD)No.15095 of 2024

V.K.K.Super Digital Cables,
Through its Partner I.Muthukumar. ... Petitioner

Vs.

1.The Appellate Deputy Commissioner,
GST Appeals,
Commercial Taxes Building,
Reserve Line Road,
Palayamkottai,
Tirunelveli.

2.The Deputy State Tax Officer -I,
Sivakasi-II,
Sivakasi,
Virudhunagar. ... 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 impugned order passed by the 1st respondent through proceedings in reference No.ZD330524072570L dated 10.05.2024 and to quash the same and further directing to first respondent to decide the appeal on merits.

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For petitioner : Mr.C.M.Mari Chelliah Prabhu

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

Heard the 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 10.05.2024 rejecting the petitioner's appeals against the Order-in-Original dated 21.12.2023 passed by the second respondent for the assessment year 2017-18.

3. The appeal has been rejected by Office of the first respondent duly signed by the Deputy Commissioner (CT) on the ground that it is beyond the statutory period of limitation under Section 107 of the TNGST Act, 2017.

4. It is noticed that the appeal made before the first respondent is dated 24.04.2024. Though the limitation for filing an appeal under Section 107 GST would have expired on or before 20.03.2023, the petitioner had another 30 days

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period for filing of application to condone the delay upto 19.04.2023 explaining sufficient cause to condone the delay. Hence, there is a marginal delay of only 5 days in filing the appeal beyond the condonable period.

5. *Prima facie*, the Court is of the view that the order rejecting the appeal cannot be faulted as the second respondent is statutory authority and duty bound to comply with the provisions relating to limitation. At the same time, it is noticed that the petitioner may have a case on merits as the dispute arose on account of the variance between the Returns filed by the petitioner and the inward supply in GSTR 2A and the auto populated information in GSTR 2B.

6. The Court is of the view that the first respondent can dispose of the appeal on merits as no assessee will gain by deliberately delaying in filing the appeal where such assessee is aggrieved by the order passed by the Original Authority.

7. The amount of tax confirmed on the petitioner is Rs.5,90,700.92/- (Rs.2,95,350.46/- each towards SGST & CGST). Apart from the above, the

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petitioner has also been imposed with interest and penalty.

8. Considering the fact that the petitioner may have a case on merits, the Court is of the view that there can be a positive direction to the first respondent to dispose of the appeal on merits and in accordance with law without reference to limitation.

This Writ Petition is disposed of with above directions. No costs. Consequently, connected miscellaneous petition is closed.

30.07.2024

Index : Yes / No
Internet : Yes / No
apd

To
1.The Appellate Deputy Commissioner,
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Tirunelveli.

2.The Deputy State Tax Officer -I,
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Sivakasi,
Virudhunagar.

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<u>C.SARAVANAN, J.</u>

apd

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