BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2024**

CORAM:

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

W.P.(MD) No.18411 of 2024
and
W.M.P.(MD) Nos.15664 and 15665 of 2024

P.Senthil Kumar ... Petitioner

/vs./

The State Tax Officer (ST),
Tuticorin II Assessment Circle,
Tuticorin District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned order of the respondent in his proceedings in GSTIN 33EAMPS3327G1ZK/2023-2024 dated 30.01.2024 and quash the same.

For Petitioner : Mr.J.Jeyakumaran

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

ORDER

In this writ petition, the petitioner has challenged the impugned order dated 30.01.2024 passed by the respondent under Section 62 of the GST Act, 2017.

2.The impugned order has preceded a notice in GSTR 3A dated 28.12.2023. The specific case of the petitioner is that the petitioner is a small time dealer and had failed to notice the same. It is submitted that the petitioner admits that the petitioner had failed to file the monthly return in GSTR 3B in time for the month of November, 2023.

3.It is submitted that unaware of the impugned order, the petitioner has filed the return in Form GSTR 3B on 30.05.2024. It is submitted that in view of Section 62 of the respective GST Act, in case returns are filed belatedly, the order is deemed to have been withdrawn. Hence, it is submitted that the impugned order is liable to be quashed.

4.On the other hand, the learned Additional Government Pleader for the respondent would submit that the petitioner was issued with a notice in GSTR 3A dated 28.12.2023 and an order came to be passed on 30.01.2024. The return was filed only on 30.05.2024, which is beyond the statutory period prescribed under Section 62(2) of the Act and therefore, the provision under Section 62(2) of the respective GST Act will not come to rescue the petitioner.

5.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, I am of the view that the rigors of sub section 2 to section 62 of the respective GST Act need not be pressed against the petitioner, as the intention of the Department is only to ensure the statutory compliance as long as the dealer complies with the same and pays the necessary late fee charges.

6.Under these circumstances, the delay in filing the returns in GSTR 3B on 30.05.2024 although beyond the period of 30 days from the date of the impugned order dated 30.01.2024 is deemed to have been condoned. Suffice to state that the petitioner shall pay the late fee as per Section 47 of the GST Act, 2017. The respondent may thereafter independently proceed to assess the returns filed by the petitioner and if there is any shortfall in payment of tax, appropriate proceedings may be initiated against the petitioner under the provisions of the respective GST Act, 2017.

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

Index : Yes / No
Internet : Yes / No
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01.08.2024

To

The State Tax Officer (ST),
Tuticorin II Assessment Circle,
Tuticorin District.

C.SARAVANAN, J.

mm

W.P.(MD) No.18411 of 2024

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