IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13603 of 2025
and
W.M.P.Nos.15267 & 15268 of 2025

M/S.Dhina Pile Foundation and Co.
Represented by its Mg Partner Dheenadhalayan
16 /22 SBI Officers Colony First Street
Arumbakkam Chennai-600106 ... Petitioner

Vs

1 THE ASSISTANT COMMISSIONER(ST)
ARUMBAKKAM ASSESSMENT CIRCLE NO.F-50
2ND FLOOR FIRST AVENUE ANNA NAGAR(EAST)
CHENNAI-600 102.

2 The Deputy Commissioner (ST)
GST Appeal Chennai-I 3rd Floor C T Annexe
Building No.1 Greams Road Chennai 600006. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the 2nd Respondent containing the impugned order passed by the 2nd Respondent in Form GST APL-02 (GSTIN 33AANFD5037H1ZI dated

25.10.2024) for the tax period 2018-19 and quash the same and to further direct the 2nd Respondent to accept the appeal preferred by the Petitioner before the 2nd Respondent on 07.10.2024 in Reference Number ZD331024193187H.

For Petitioner : Mr.J.Saravanan

For Respondents Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.J.Saravanan learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran learned Government Advocate (T) who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the second respondent in Form GST APL-02 dated 25.10.2024 and to quash the same and to further direct the 2nd Respondent to accept the appeal preferred by the Petitioner before the 2nd Respondent on 07.10.2024.

3. The learned counsel for the petitioner would submit that as against the order passed by the first respondent dated 31.01.2024, the petitioner preferred an Appeal, but the same came to be rejected by the second respondent by the impugned order dated 25.10.2024 on the ground of delay.

3.1 The learned counsel for the petitioner would submit that the reason for the delay in filing is owing to the fact that the petitioner was totally not aware of the order passed by the first respondent, as the same was not communicated to the petitioner through physical mode of service, but was uploaded in the GST portal; that had the order of the first respondent been communicated to the petitioner by the respondent-GST Department by personal service or service through e-mail, the petitioner, would have certainly, filed the Appeal within the due date. Thus, by averring so, the learned counsel seeks for setting the impugned order of rejection of the Appeal passed by the second respondent on any terms.

4. The learned Government Advocate (T) for the respondents would submit that since the Appeal has been filed beyond the condonable period of limitation, the same came to be rightly rejected by the second respondent.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the case on hand, it is seen that the petitioner was totally unaware of the assessment order passed against them by the first respondent dated 31.01.2024, since, the same was not directly served on the petitioner but was uploaded through the GST Portal. However, the moment, when the petitioner came to know of the impugned assessment order passed by the first respondent, immediately, they preferred an Appeal and made a pre-deposit of 10% of the disputed tax, however, the Appeal was summarily rejected by the second respondent on the ground of delay of 160 days. Hence, the present Writ Petition is challenging order of rejection of the Appeal passed by the second respondent.

6.1 Thus, this Court, considering the facts, as narrated supra, in the interest of justice, is inclined to condone the delay, and set aside the impugned order passed by the second respondent dated 25.10.2024.

6.2 Accordingly, the impugned order of rejection of the Appeal passed by the second respondent dated 25.10.2024 is set aside and the delay in filing the appeal is condoned, however, subject to the condition that as agreed by the petitioner to deposit 5% of the disputed tax, apart from making pre-condition deposit of 10% of the disputed tax for filing Appeal, within a period of two weeks from the date of receipt of a copy of this order. Consequently, the second respondent/Appellate Authority is directed to take up the Appeal on file and dispose of the same on merits and in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

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To

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Krishnan Ramasamy,J.,

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