IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13662 of 2025
and
W.M.P.Nos.15339 & 15340 of 2025

M/s.A.K.G.Lodging,
Legal Name : Kandasamy Sah Huf. ...Petitioner

Vs.

The State Tax Officer,
Office of the Commercial Tax Officer,
Kanchipuram Assessment Circle, Kancheepuram. ...Respondent

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 the impugned proceedings of the Respondent in GST/33AAHHK7306N1Z0/2019-20 dated 07.08.2024 followed by its Summary proceedings in Form GST DRC-07 vide Ref No.ZD3308240762393 dated 09.08.2024 followed by rejection of the Rectification Petition vide the impugned proceedings in Ref.No. ZD3311240112925 dated 04.11.2024 for the Tax Period 2019-2020 quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard Mr.S.Rajasekar learned counsel appearing for the petitioner and Mrs.K.Vasanthamala learned Government Advocate (T) who takes notice on behalf of the respondent. 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 respondent dated 07.08.2024 followed by its Summary proceedings in Form GST DRC-07 vide Ref No.ZD3308240762393 dated 09.08.2024 followed by rejection of the Rectification Petition vide order dated 04.11.2024 and to quash the same.

3. When the matter is taken up for hearing today, the learned counsel for the petitioner submits that though the petitioner has sought for a larger relief, (viz., seeking to quash the impugned orders) suffice it would be, if this Court issues a direction, permitting the petitioner to file an appeal before the Appellate Authority and the same may be directed to be entertained by the Appellate Authority on any terms, without rejecting it on the ground of limitation, in which case, the petitioner would be able to establish their case before the Appellate Authority.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has confined the prayer, and only seeks permission of this Court to avail the Appeal remedy, this Court may pass appropriate orders, as it deems fit.

5. Considering the fact that the petitioner has now restricted their prayer and only sought for a direction permitting them to file Appeal before the Appellate Authority, this Court is inclined to grant such liberty.

6. Accordingly, this Court pass the following orders/directions:-

i) The petitioner is granted liberty to approach the Appellate Authority by way of Appeal as against the orders, which are impugned herein within a period of 30 days from the date of receipt of a copy of this order, however, the same is subject to the condition 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.

ii) As and when such an Appeal is preferred by the petitioner, the Appellate Authority, upon verification of the proof with regard to the payment of 5% of the disputed tax in addition to 10% of mandatory deposit for filing Appeal, is directed to entertain the Appeal by condoning the delay and dispose of the Appeal in accordance with law, without raising any ground on limitation aspect.

iii) It is needless to state, the respondent/Assessing Officer shall not precipitate the issue by initiating any recovery proceedings against the petitioner and the same shall be kept in abeyance till the issue is seized of by the Appellate Authority.

7. With the above direction, the Writ Petition is disposed of No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

sd
Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer,
Office of the Commercial Tax Officer,
Kanchipuram Assessment Circle, Kancheepuram.

Krishnan Ramasamy,J.,

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