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W.P.No. 13740 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13740 of 2025

and

W.M.P.Nos.15428 & 15430 of 2025

M/S.Gujarat Co Operative Milk Marketing Federation Limited
Represented by its Zonal Commercial and Accounts Manager
Mr.Rahul Arora Third Floor New No.58 Old
No.104 Arihant Square, G.N.Chetty Road,
Chennai – 600 017.

...Petitioner

Vs.

THE ASSISTANT COMMISSIONER OF CGST
AND CENTRAL EXCISE TRIPLICANE
DIVISION CHENNAI NORTH 26/1 6TH FLOOR
(ANNEX BUILDING) UTTAMAR GANDHI ROAD
NUNGAMBAKKAM CHENNAI-34.

...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 records of the Respondent in the impugned Order Reference No.ZD330524024228O dated 05.05.2024 passed by the Respondent for the period 2018-2019 and quash the same as it is passed without application of mind in an arbitrary unreasonable and illegal manner and in violation of principles of natural justice.



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For Petitioner : Ms.Sharanya Vijay K.
for Mr.K.Vaitheeswaran
For Respondent : Mr.B.Ramanakumar
Senior Standing Counsel

Order

Heard Ms.Sharanya Vijay K. learned counsel appearing for the petitioner and : Mr.B.Ramanakumar learned Senior Standing Counsel 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 05.05.2024 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 order) 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 without rejecting it on the ground of



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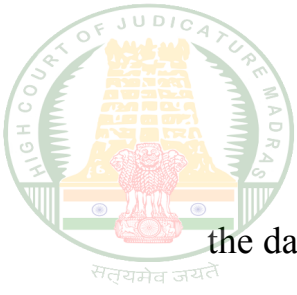
limitation, in which case, the petitioner would be able to establish their case before the Appellate Authority on any terms.

4. The learned Senior Standing Counsel 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 order, which is 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



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the date of receipt of a copy of this order.

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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

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Index : yes/no

Neutral Citation : yes/no



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Krishnan Ramasamy,J.,



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