IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.38768 of 2024
and
W.M.P.Nos.41979 and 41981 of 2024

Tvl.S.V.Technick,
Rep. by its Proprietor Subramanian Sri Ram,
S/o.Subramanian,
B4/38, Pattukottai Kalyana Sundaram Street,
Marai Malai Nagar,
Chennai 603 209. ..Petitioner

Vs.

1. The Appellate Deputy Commissioner (CT)(GST)(Appeal-II),
PAPJM Main Building, 2nd Floor,
Greams Road, Chennai.

2. Deputy State Tax Officer-II,
Maraimalai Nagar Assessment Circle,
4/109, Second Floor,
Bangalore Chennai Highway, Varadarajpuram,
Nazarathpet, Chennai, Tamil Nadu 600 123.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned order vide No.ZD330824068458Z dated

09.08.2024 passed by the 1st respondent and quash the same and thereby direct the 1st respondent to restore the appeal filed by the petitioner against order vide Reference No.ZD331223218927F dated 27.12.2023 on record and dispose the appeal on merits.

For Petitioner : Mr.K.Thyagarajan

For Respondents : Mrs.Vasanthamala
Government Advocate

ORDER

The present writ petition is filed challenging the impugned order of appellate authority whereby the appeal dated 26.04.2024 filed by the petitioner against the order of assessment was reckoned / refused to be entertained on the premise that it is beyond the statutory period of limitation prescribed for filing an appeal.

2. It is submitted by the learned counsel for the petitioner that in terms of Section 107 of the Act, the time limit for filing appeal is 3 months and if the appellant is prevented by sufficient cause from presenting the said appeal within the period of 3 months then they may be allowed to present the appeal within a further period of one month.

3. It is submitted by the learned counsel for the petitioner that instead of taking the period which is prescribed for filing the appeal as 4 months the respondent authority has proceeded to examine and decide the maintainability of the appeal by assuming that it is 90 days + 30 days which according to the petitioner is contrary to Section 107 of the Act.

4. It is also submitted that the expression 'month' though not defined under the GST Act is defined under the General Clauses Act,1977, which reads as under:

> *3(35) "Month" shall mean a month reckoned according to the British calender;*

5. It was thus submitted that the limitation ought to have been reckoned on the basis of 3 months from the date of receipt of the order and not 90 days + 30 days.

6. The learned counsel for the respondent would submit that the appellate authority would re-examine the issue afresh and determine if

the appeal is within the period prescribed under Section 107 of the Act.

7. In view thereof, the impugned order is set aside. The appellate authority shall re-examine the issue afresh and determine if the appeal is filed within the period prescribed under Section 107 of the Act (or) if the appeal is within the condonable period, the appellate authority would also examine if the petitioner was prevented by sufficient cause in not presenting the appeal within a period of 3 months stipulated in terms of Section 107(1) of the Act and pass orders afresh.

8. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.01.2025

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

To:

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   Greams Road, Chennai.

2. Deputy State Tax Officer-II,
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MOHAMMED SHAFFIQ, J.

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