



W.P.No.10598 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.04.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.10598 of 2023 and
WMP.Nos.10547 & 10549 of 2023

M/s.Sathya Furnitures,
Represented by Gurunathan Sankar,
Proprietor,
111/4, Cuddalore main road,
North extension, Salem-636003.

... Petitioner

Vs

The Assistant Commissioner (ST) (FAC),
Salem bazaar circle,
Salem.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the records on the files of the respondent in Order No.33BJKPS9135A/Z8/GST/AC dated 11.08.22 and quash the same as being without jurisdiction, violative of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.V.Srikanth

For Respondent : Mrs.E.Ranganayaki
Additional Government Pleader



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ORDER

Mrs.Ranganayaki, learned Additional Government Pleader accepts notice for the respondent and is armed with instructions to enable a disposal of the matter at this juncture.

2.The petitioner has approached this Court belatedly seeing as the impugned order is dated 11.08.2022. To be noted that the impugned order has been passed under the provisions of Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act') and an appeal ought to have been filed under Section 107 within a period of 120 days (90 + an extended period of 30 days) within which condonation may have been sought. No condonation is available thereafter. Admittedly, and as on date the delay is one week shy of four months.

3.In such cases, it calls upon the Court to examine whether there was any justification available for having approach this Court belatedly and only then consider intervening. In the present case, the petitioner has, at paragraph 15 in the affidavit filed in support of the writ petition has stated as follows:

'15.I state that the delay in not filing the appeal under the Act or the delay in approaching the Honourable Court was neither willful nor wanton. I state that after receipt of the order, I had met the respondent and explained that the delay in filing the return for March 2019 was due to the mistake of the accountant only and not my mistake. It was also pointed out that due to the mistake of the accountant only and not my mistake. It was also pointed out that



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due to the mistake of the accountant my registration certificate was also cancelled by the then officer who had issued the show cause notice dated 19.3.20. I had also explained that I was not aware of the service of the subsequent notices dated 19.10.20 and 7.4.21 due to the mistake of the accountant. I also brought to the notice of the respondent the letter I had submitted to the predecessor officer but the respondent refused to accept the letter for the reason that I had no proof of submission of the letter. I state that the respondent did not accept or reject my request for passing revised order. It was in the aforesaid circumstances, I did not file appeal within the prescribed period and also the delay in approaching the Honourable Court.'

4. That apart, incidentally, though being a point on merits, this has not weighed with the Court in intervening in the matter, the very validity of Section 16(4) of the Act in terms of which the respondent has reversed input tax credit has been challenged and is pending consideration in WP.No.8154 of 2022 and other cases, though not at the instance of the petitioner.

5. Seeing as the petitioner is a small trader, and an explanation of some nature has been set out in the affidavit. I am of the view that the petitioner may be permitted to approach the appellate authority before whom all conditions for entertaining the appeal such as pre-deposit would be applicable. If appeal is filed within a period of one week from today, it shall be entertained without reference to limitation but ensuring compliance with all other requirements including pre-deposit.



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6. With this, this writ petition is dismissed with liberty. No costs.

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Connected miscellaneous petitions are closed.

05.04.2023

vs

Index : Yes / No

Speaking Order

Neutral Citation : Yes / No

To

The Assistant Commissioner (ST) (FAC),
Salem bazaar circle,
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Dr.ANITA SUMANTH, J.

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