



W.P.No.9418 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.04.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9418 of 2024
and W.M.P.Nos.10426 & 10427 of 2024

Sri.Balu Jayaraman

... Petitioner

-VS-

The Assistant Commissioner (ST),
Avadi Assessment Circle,
Integrated Commercial Taxes Building (North Division),
1st Floor, Room No.124,
Elephant Gate Bridge Road,
Vepey, Chennai 600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent in GSTIN: 33AACPJ8700C1ZC/2021-22 and quash the proceeding dated 12.09.2023 passed therein.

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WEB COPY For Petitioner : Mr.B.Raveendran

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

ORDER

An order dated 12.09.2023 is assailed primarily with regard to the imposition of 100% penalty.

2. In relation to alleged wrongful availment of Input Tax Credit, proceedings were initiated against the petitioner and such proceedings culminated in impugned order dated 12.09.2023.

3. Learned counsel for the petitioner submits that a statutory appeal was not filed earlier because the petitioner decided to discharge the tax and interest liability. By referring to receipts issued in respect of payments made by the petitioner, he points out that the



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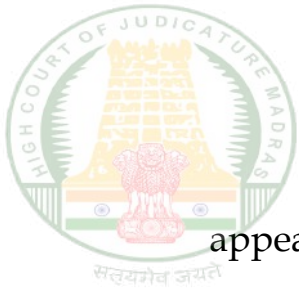
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entire tax and interest liability, as per the impugned order, was discharged. He seeks an opportunity to contest the liability towards penalty by way of statutory appeal.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He submits that the writ petition has been filed after the period of limitation expired.

5. On examining the receipts, it appears that the petitioner made payments between 14.02.2024 and 18.03.2024. This writ petition was filed in late March 2024 after discharging the entire tax and interest liability.

6. By taking into account the fact that the entire tax and interest liability was discharged and that an appeal was not filed earlier since the petitioner intended to discharge liability to that extent, it is just and appropriate that the petitioner be permitted to file a statutory



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appeal only insofar as it pertains to penalty.

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7. For reasons set out above, W.P.No.9418 of 2024 is disposed of by permitting the petitioner to file a statutory appeal only with regard to the penalty imposed under impugned order dated 12.09.2023 within *two weeks* from the date of receipt of a copy of this order. If such statutory appeal is filed within the aforesaid period, the appellate authority is directed to receive and dispose of the same on merits without going into the question of limitation. No costs. Consequently, W.M.P.Nos.10426 and 10427 of 2024 are closed.

10.04.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Assistant Commissioner (ST),
Avadi Assessment Circle,
Integrated Commercial Taxes Building (North Division),
1st Floor, Room No.124,

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SENTHILKUMAR RAMAMOORTHY,J

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