



W.P.No.22720 of 2023

**WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 01.08.2023

CORAM :

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

W.P.No.22720 of 2023

and

W.M.P.No.22167 of 2023

Tvl.Nachimuthu Selvaraj

... Petitioner

Vs.

1.The Appellate Deputy Commissioner (ST) (FAC)  
Goods and Services Tax, Coimbatore,  
Commercial Tax Buildings,  
Coimbatore.

2.The Deputy State Tax Officer-2,  
Valparai Circle, Valparai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the second respondent in his proceedings in GSTIN:33DFUPS7884L1Z6/2019-2020 dated 12.07.2022 and consequential summary of order in Form GST DRC-07 in reference no.ZD330722004925K dated 12.07.2022 and quash the same as illegal.



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For Petitioner : Mr.S.Ramanathan

For Respondents : Mrs.K.Vasanthamala  
Government Advocate

**ORDER**

Mrs.K.Vasanthamala, learned Government Advocate takes notice on behalf of the respondents.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. The facts of the present case is almost similar to the facts of the case in W.P.No.22716 of 2023. Here also, the Show Cause Notice was issued to the petitioner on 26.11.2020 followed by reminder notice dated 24.02.2022, which has culminated in order of the second respondent dated 12.07.2022.

4. After the aforesaid order was passed by the second respondent, the petitioner received two reminders dated 09.11.2022 and 19.01.2023. Instead of filing reply, the petitioner had appeared in person before the second



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respondent on 27.01.2023 and filed all the documents in support of his  
contention.

5. By way of an abundant caution, the petitioner has also filed a statutory appeal before the first respondent Appellate Deputy Commissioner on 10.02.2023, which has been rejected by the first respondent Appellate Commissioner with the following observations:-

**"This appeal is filed under the section 107(1) of the TNGST Act, 2017 by Tvl.Nachimuthu Selvaraj Trader Name : N.Selvaraj (GST IN: 33DFUPS7884L1Z6), 9/681, Nadumalai Lay out, Valparai Coimbatore - 642 127 against the order of the Deputy State Tax Officer, Valparai Assessment Circle, Valparai, Pollachi in Form DRC 07 Ref.No.ZD330722004925K (for the year 2019-2020) dated 12.07.2022.**

**I have carefully verified the records submitted before me and after examining the documents and contentions raised by the appellant following order is passed as per the provisions of the TNGST Act, 2017.**

**The Goods and Services Tax 2017 was implemented from 1st July 2017. As per Section 107(1) of the TNGST Act 2017**

**Any person aggrieved by any decision or order passed under this act or the State Goods and Service Tax act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such appellate authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.**

**As per the provisions of the Act, the appellants have sufficient time of three months to file their appeal against**



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any order against which they are aggrieved.

And as per Section 107(4) of the TNGST Act, 2017, which reads as follows:

The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months allow it to be presented within a further period of one month.

As per the above provision, if the appellants has been prevented for sufficient cause from non-presenting the appeal within the aforesaid period of three months as per section 107(1) of the TNGST Act, 2017, the appellant has been allowed a further period of one month, only if the appellant has been prevented by sufficient cause from presenting the appeal within the period of three months.

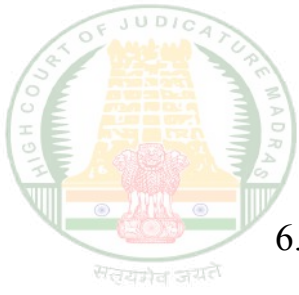
Therefore on any accounts an appeal presented after a period of four months from the date of receipt of the decision or order being communicated to such a person shall not be entertained by the Appellate Authority functioning under the TNGST Act, 2017.

In the appellants case the order has been communicated to the appellant on 12.07.2022 through online. The appellant had time till 11.10.2022 to file appeal against the order before this forum.

Further the appellant as per section 107(4) also had one month time for sufficient cause from non-presenting the appeal within the period of three months as per section 107(1) of the TNGST Act. Such time of further one month expires on 11.11.2022.

The appellant has filed the appeal before this forum only on 10.02.2023 by a further delay of eighty nine days for which there is no provision under the TNGST Act, 2017 to condone the delay and entertain the appeal filed by the appellant. Hence I have no other option except to dismiss the appeal filed by appellant, since the appeal has been filed beyond the condonable limit with a delay of three months.

**In fine, the appeal stands Dismissed."**



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6. The facts of the case are almost identical as in W.P.No.22716 of WEB C 2023 wherein, the first respondent Appellate Deputy Commissioner has been directed to dispose of the petitioner's appeal on merits. Consequently, the impugned order passed by the first respondent is quashed and the case is remitted back to the first respondent to dispose of the appeal of the petitioner on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

7. Needless to state, before passing such order, the petitioner shall be heard.

8. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

**01.08.2023**

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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**C.SARAVANAN, J.**

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To

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