HON'BLE SRI JUSTICE U.DURGA PRASAD RAO
AND
HON'BLE SMT. JUSTICE VENKATA JYOTHIRMAI PRATAPA

WRIT PETITION No.20327 of 2023

ORDER: ***(per UDPR, J)***

The petitioner challenges the rejection order dated 29.11.2022 passed by the 2nd respondent rejecting the appeal filed by the petitioner on the ground that the appellate authority is not empowered to admit the appeal filed manually as prescribed under Rule 108(1) of A.P. GST Rules in the absence of production of evidence by the appellant regarding any notification being issued by the Chief Commissioner (ST), Andhra Pradesh, in terms of Rule 108.

2. Heard Sri S.Dilip Jayaram, learned counsel for petitioner and learned Government Pleader for Commercial Tax representing on behalf of the respondents.

3. While referring to the copy of the screen shot of the official website of the respondents, learned counsel for petitioner would submit that inspite of submitting the valid order (assessment against which the appeal was sought to be filed), it was only popped up as 'Please enter valid order number. If error persists, please call GST Helpdesk or log your issues on Grievance redressal Portal for GST and quote error

number AP-FOWC1002' and thus, the efforts made by him to upload the appeal papers electronically could not be fructified and therefore, the petitioner submitted the appeal papers manually before the 2nd respondent in the month of January, 2022, after making a complaint about the technical glitch occurred while uploading the appeal and sending e-mail complaints dated 05.01.2022 and 06.01.2022. Learned counsel would thus submit that the 2nd respondent was not justified in rejecting the appeal on the sole ground that the petitioner has not submitted the appeal electronically and that for manual submission, there was no notification issued by the Chief Commissioner.

4. Learned Government Pleader opposed the writ petition reiterating that since the petitioner could not produce any notification issued by the Chief Commissioner (ST), Andhra Pradesh, facilitating the petitioner to submit the appeal in manual form.

5. We perused the copies of the screen shots filed along with the writ petition. They would prima facie show that the petitioner made an effort to submit the appeal electronically but due to unknown technical glitch, the web portal did not permit the petitioner to process the appeal electronically, for which the petitioner, in our view, cannot be penalized or deprived of filing the appeal manually. In this regard, Rule 108 of A.P.

GST Rules lays down that an appeal to the appellate authority under sub-section (1) of Section 107 shall be filed in FORM GST APL 01, along with the relevant documents, **either electronically or otherwise as may be notified by the Commissioner** and a provisional acknowledgment shall be issued to the appellant immediately. True is that so far as the submission of the appeal in '**otherwise**' format, the rule says the notification of the Chief Commissioner is required. However, so far there is no such notification. Question is by that count, whether the statutory right of filing appeal should be deprived to a concerned Assessee/Dealer.

6. In similar circumstances, a Division Bench of this Court in W.P. No.9324 of 2019 has observed that 'when substantial justice is pitted against technical considerations, it would be always necessary to prefer the ends of justice' and allowed the writ petition filed by the petitioner therein and set aside the appeal rejection order passed by the 2nd respondent therein. In our view, the said order applies with all its fours. Added to it, in the instant case, the facts would show that the petitioner has made efforts to submit appeal at first electronically and having failed in such attempt only he submitted the appeal in manual form. Therefore,

we are under the considered view that the writ petition deserves to be allowed.

7. Accordingly, the writ petition is allowed and the impugned appeal rejection order dated 29.11.2022 passed by the 2nd respondent is set aside and the 2nd respondent is directed to admit the appeal if otherwise in order and process the same and dispose it on merits in accordance with law. No costs.

As a sequel, interlocutory applications pending, if any, in this case shall stand closed.

U.DURGA PRASAD RAO, J

VENKATA JYOTHIRMAI PRATAPA, J

11.08.2023

Note: issue C.C. by 16.08.2023.

B/o.SS