

[2023] 153 taxmann.com 542 (Andhra Pradesh)/[2023] 99 GST 683 (Andhra Pradesh)/[2023] 77 GSTL 221 (Andhra Pradesh)[11-08-2023]

GST : Where assessee made an effort to submit appeal electronically but due to unknown technical glitch, web portal did not permit them to process appeal electronically, assessee could not be penalized or deprived of filing appeal manually

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[2023] 153 taxmann.com 542 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

K V Reddy Granites & Exports

v.

State of Andhra Pradesh*

U. DURGA PRASAD RAO AND SMT. VENKATA JYOTHIRMAI PRATAPA, JJ.

WRIT PETITION NO.20308 OF 2023

AUGUST 11, 2023

Appeals to appellate authority - Technical glitches in filing appeal - Assessee submitted that inspite of submitting valid order of assessment against which appeal was sought to be filed, official website only popped up '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 and, thus, efforts made by assessee to upload appeal papers electronically could not be fructified - Therefore, assessee submitted appeal papers manually after making a complaint - Appellate authority did not admit appeal filed manually - HELD : Evidences prima facie showed that assessee made an effort to submit appeal electronically but due to unknown technical glitch, web portal did not permit them to process appeal electronically - For this, assessee could not be penalized or deprived of filing appeal manually - Rule 108 of APGST Rules lays that such appeal shall be filed either electronically or otherwise as may be notified by Commissioner, but so far there was no such notification - Impugned appeal rejection order passed by Additional Commissioner was set aside and he was directed to admit appeal [Section [107](#) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 - Rule [108](#) of Central Goods and Services Tax Rules, 2017/Andhra Pradesh Goods and Services Tax Rules, 2017] [Paras 5 and 7] [In favour of assessee]

CASE REVIEW

Sri Siddhi Kalko Bhagavan Stone Crusher v. Asstt. Commissioner (ST) [[2020](#)] [115 taxmann.com 429/2020](#) ([42](#)) [GSTL 328 \(AP.\)](#) (para 6) followed.

CASES REFERRED TO

Sri Siddhi Kalko Bhagavan Stone Crusher v. Asstt. Commissioner (ST) [[2020](#)] [115 taxmann.com 429/2020](#) ([42](#)) [GSTL 328 \(AP.\)](#) (para 6).

ORDER

U. Durga Prasad Rao, 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 Sri Siddhi Kalko Bhagavan Stone Crusher v. Asstt. Commissioner (ST)* [[2020](#)] [115 taxmann.com 429/2020 \(42\) GSTL 328 \(AP\)](#) 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.

SB

*In favour of assessee.