SPK and Co. vs The State Tax Officer

Appeal – Limitation for filing appeal under Section 107 of the CGST/TNGST Act, 2017 – effect of rectification proceedings under Section 161 on computation of limitation.

Date of Order: November 22, 2024
Case Law No: GIB-MHC-2024-03
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CASE DESCRIPTION / SUMMARY

Facts:
The petitioner challenged the assessment order dated 07.08.2024 for the years 2019-20 and 2022-23 and the rectification order dated 12.11.2024 passed by the State Tax Officer. The petitioner contended that the show cause notice was vague and that the limitation for filing appeal should not be computed from the date of the original assessment order since a rectification application under Section 161 had been filed and rejected later.

Court Decision:
The Court held that when a rectification application under Section 161 of the GST Act is filed, the rectification order merges with the original assessment order. If the rectification application is rejected, the limitation period for filing an appeal against the original assessment order cannot be computed from the date of the original order. The limitation would commence from the date on which the rectification application is disposed of.

Since the rectification order was passed on 12.11.2024, the limitation for filing appeal against the assessment order dated 07.08.2024 would be reckoned from 12.11.2024. The writ petitions were disposed of granting liberty to the petitioner to file an appeal and clarifying that limitation shall be calculated from the date of rejection of the rectification application.

Cases Referred by Court:

· MD Electric Co. v. State Tax Officer, Chennai, (2024) 17 Centax 348 (Mad.)

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