IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No. 807 of 2019
and
WMP.Nos.888 & 890 of 2019

M/s. Asean Aromatics Private Limited,
Represented by its Managing Director: Capt. T.R.Muralidharan,
Plot No. XXI, Golden Jubilee Biotech Park for Woman Society,
SIPCOT Industrial Estate,
Siruseri, Navalur,
Kanchipuram District.

...Petitioner

Vs

Assistant Commissioner (Circle) GST,
Tamil Nadu State GST,
Tambaram (Circle).

....Respondent

....

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, order or direction, in the nature of a Writ, under Article 226 of the Constitution of India, to call for the records relating to the order for cancellation of registration in Reference Number:ZA331118017839E dated 8.11.2018 passed by the respondent an quash the same as unlawful, unsustainable in law.

For Petitioner : Mr. K. Jayachandran
For Respondent : Mr. Mohammed Shafiq,
Special Government pleader (Taxes)
assisted by Mr. V.Haribabu, AGP (Taxes)

O R D E R

The petitioner challenges an order dated 08.11.2018 cancelling his registration for non filing of returns of returns, on the ground that GSTR 3B returns have been filed upto December 2017 and GSTR-1 only UPTO August 2018.

2. Mr. K. Jayachandran, learned counsel appears for the petitioner and Mr. Mohammed Shafiq, Special Government pleader for the respondent.

3. A show cause notice had been received by the petitioner on 04.10.2018 for cancellation of registration, in response to which the petitioner filed a reply on 10.10.2018 stating that the delay was on account of severe working capital shortage. He had also stated that enhancement of working capital was awaited and the dues would be settled at the earliest. While this is so, the impugned order has been passed without reference to the objections raised.

4. Learned Standing Counsel draws attention to the provisions of Section 30 of the Goods and Service Tax Act, 2017 requiring returns to be filed for the entire period of non-compliance along with tax dues, in order for the cancellation of the registration to be revoked.

5. Learned counsels have referred, in extenso, to a slew of circulars issued by the Centre (the Central Board of Indirect Taxes and Customs) and the State (the Principal Secretary/Commissioner of Commercial Taxes) relaxing the time limits fixed for submission of returns for various periods.

6. I consciously refrain from referring to details of the circulars as neither of the learned counsels is in a position to explain with clarity what the prevailing position is with regard to the extended/applicable time limit for submission of returns. Suffice it to say that the overall impression that I get is that the authorities, both Centre and State have taken into consideration the fact that Goods and Service Tax is nascent in its application and is an evolving regime. The interests of small traders have thus weighed consideration with the authorities in granting the relaxation in time limits.

7. In the circumstances, I am inclined to direct the Principal Secretary/Commissioner of Commercial Taxes, Chennai, to consider and pass orders upon the application of the petitioner dated 18.12.2018 wherein the petitioner seeks leave to pay pending GST dues in six (6) monthly instalments, a sum of Rs.10,00,000/- having been paid as first instalment on 14.12.2018. Let the Principal Secretary/Commissioner of Commercial Taxes bear in mind the technical difficulties faced by the assessee, the fact that the petitioner has not engaged in any business transactions, on account of the cancellation of registration, for the last four (4) months as well as relevant circulars issued by the authorities till date, in disposing the application.

8. The petitioner will appear before the Principal Secretary/Commissioner of Commercial taxes on 04.03.2019 at 10:30 am or on a date as proximate to the aforesaid date as convenient to Principal Secretary/Commissioner of Commercial

taxes and communicated to the petitioner and orders will be passed by him on the Application within two (2) weeks thereafter.

9. This Writ Petition is disposed of in the aforesaid terms. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (Circle) GST,
Tamil Nadu State GST,
Tambaram (Circle).

+1cc to Mr. K. Jayachandran, Advocate sr.no.16902

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nr 01/03/2019