IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.22260 of 2019
&
W.M.P.No.21541 of 2019

M/s.Special Wire Products (P) Ltd
Represented by its Managing Director
P.L.Rajendran. ... Petitioner

Vs.

1.The Deputy/Assistant Commissioner
GST and Central Excise
Range II, Ambattur Division
R 40, A1, TNHB Complex
Mugappair, Chennai - 600 037.

2.The Goods and Service Tax Network
Represented by The Chairman
East Wing, 4th Floor
World Mark-1
Aerocity, New Delhi - 110 037. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for records of the first respondent pertaining to the order issued from File reference No.ZA3303190581941 dated 19.03.2019 cancelling the GSTIN registration of the petitioner, quash the same and direct the respondents to restore the registration of the petitioner GSTIN No.33AABCS0314F1Z3 immediately or issue any other writ or order as may be required in facts and circumstances of this case.

For Petitioner : Mr.Nitin Chopra

For Respondents : Mr.A.P.Srinivas,
Senior Standing Counsel.

ORDER

Mr.Nitin Chopra, learned counsel on record for writ petitioner is before this Court. Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice on behalf of both the respondents.

2. With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3. In the light of the trajectory of the hearing today, the entire matter now turns on an extremely narrow compass.

4. Suffice to say that writ petitioner was issued a 'show cause notice' ('SCN' for brevity) dated 02.03.2019, calling upon the writ petitioner to show cause as to why the registration of writ petitioner qua 'Goods and Service Tax' ('GST' for brevity) should not be cancelled inter alia for what according to the respondent is non commencement of business within 6 months from the date of voluntary registration. In this SCN, writ petitioner was called upon to send a reply within seven working days and the personal hearing was also fixed on a specified date and time viz., 07.03.2019 at 2.00 p.m.

5. Admittedly, writ petitioner did not send a reply to the SCN and did not avail of the personal hearing. This resulted in an order dated 19.03.2019 being passed, wherein writ petitioner's registration was cancelled.

6. To be noted, in the SCN dated 02.03.2019, it was made clear that if writ petitioner does not send a reply or does not appear for personal hearing, the case will be decided ex-parte on the basis of available records and on merits. The most relevant part of SCN reads as follows:

> 'You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.
>
> You are hereby directed to appear before the undersigned on 07.03.2019 at 02.00
>
> If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.'

7. Instant writ petition has now been filed assailing the order dated 09.03.2019 cancelling the writ petitioner's registration.

8. At the hearing, learned counsel for writ petitioner drawing the attention of this Court to a screen shot, submitted that writ petitioner has made an application for revocation of the impugned order cancelling the registration and that such application has been made in the GST portal by writ petitioner.

9. Notwithstanding the aforesaid application for revocation of cancellation dated 02.04.2019, a further notice has been issued and the portal has been blocked, is learned writ petitioner counsel's say.

10. In the aforesaid backdrop, learned Revenue Counsel, who has accepted notice on behalf of the respondents submits that writ petitioner's revocation application dated 02.04.2019 will be taken up and disposed of as expeditiously as possible and in any event within a fortnight from the date of receipt of a copy of this order, after giving an opportunity of personal hearing to the writ petitioner.

11. Obviously all proceedings post impugned order i.e., post 19.03.2019 will be governed by the outcome of the order in the revocation application. Order in the revocation application shall be communicated to the writ petitioner under due acknowledgement within seven working days from the date of the order.

12. Writ petition is disposed of with the above direction. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm
To

1.The Deputy/Assistant Commissioner
GST and Central Excise
Range II, Ambattur Division
R 40, A1, TNHB Complex
Mugappair, Chennai - 600 037.

2.The Goods and Service Tax Network
Represented by The Chairman
East Wing, 4th Floor
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Aerocity, New Delhi - 110 037.

+1cc to M/s.G.M.Syed Murullah Sheriff, Advocate Sr.64725
+1cc to M/s.Jayakumar, Advocate Sr.64775

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srg 06/09/2019