IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.11.2019
CORAM
THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
W.P.No.28898 of 2019
and
W.M.P.No.28643 of 2019

M/s.Takvaviya Analytics Private Limited
Rep.by its Director Bhaskar Raghunathan
No.39/19, Aspen Court, III Floor,
6th Main Road, R.A. Puram,
Chennai - 600 028. ... Petitioner

Vs.

1.The Assistant Commissioner.
Goods and Services Tax Department,
Chennai North Commissionerate
Range III,
No.26/1, Mahatma Gandhi road,
Nungambakkam,
Chennai - 600 034.

2.The Superintendent,
Goods and Services Tax Department,
Chennai North Commissionerate
Range III,
No.26/1, Mahatma Gandhi road,
Nungambakkam,
Chennai - 600 034. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the Impugned order in Ref.No.ZA330719038511K dated 12.07.2019 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.K.Senguttuvan

For Respondents: Mr.S.Rajasekar
Jr.Standing Counsel

O R D E R

The petitioner is aggrieved against the order of the 2nd respondent dated 12.07.2019 in cancelling the registration of the petitioner under the Goods and Service Tax.

2. The case of the petitioner in short is as follows -

It is a Private Limited Company engaged in the business of data analysis and technical consulting services. The petitioner was registered under the Goods and Services Tax from 13.02.2018 bearing GSTN 33AAGCT4934PIZU falling under the Central Jurisdiction of 1st and 2nd respondent. A Show Cause Notice dated 11.05.2019 was issued by the 2nd respondent for cancellation of registration due to default in filing of the returns for a continuous period of six months from April 2018. The petitioner company did not file return from April 2018 till date of receipt of the Show Cause Notice inspite of the fact that there was no cash out flow required in view of the ITC availability while filing returns. However, the petitioner, on receipt of the Show Cause Notice, filed returns in required forms from April 2018 to March 2019 on 17.05.2019. The petitioner has also intimated the same to the 2nd respondent through their letter dated 22.05.2019 alongwith the copies of the returns filed. As per Rule 22 (3) of the Central Goods and Service Tax Rules, 2017, the proper officer is required to drop the proceedings within a period of 30days from the date of reply to the Show Cause Notice. However, in this case, the 2nd respondent has chosen to pass the impugned order of cancellation of the registration on 12.07.2019 even though the petitioner has filed their returns on 17.05.2019 and intimated the same to the 2nd respondent on 22.05.2019.

3. Counter affidavit is filed by the respondents wherein after narrating various facts and circumstances, the respondents sought to justify the impugned order of cancellation on the ground that the petitioner has not filed their reply to Show Cause Notice within the stipulated time.

4. The learned counsel for the petitioner submitted that apart from filing the returns, the petitioner has also paid necessary taxes. Therefore, he submitted that the reply filed by the petitioner may be directed to be considered by the authority concerned for revoking the cancellation of registration.

5. The learned counsel appearing for the respondents reiterated the contentions raised in the counter and submitted that the petitioner has not chosen to file the reply in time and therefore there is some practical difficulty in considering the

reply filed by the petitioner and passing an order immediately, in view of communication received from Pr. ADG, DG (Sustems), Chennai dated 15.10.2019.

6. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

7. The registration of the petitioner was cancelled through the impugned proceedings dated 12.07.2019 only on the ground that the petitioner has not filed returns for a continuous period of six months. It is seen that before passing the said order, Show Cause Notice was issued to the petitioner on 11.05.2019. According to the petitioner, they filed their returns on 17.05.2019, immediately after receipt of the Show Cause Notice and also communicated the same to the 2nd respondent on 22.05.2019. Therefore, it is evident that before passing the impugned order on 12.07.2019, the above said action of the petitioner should have come to the notice of the 2nd respondent since the impugned order itself was passed nearly after two months from the date of such filing of the returns. No doubt, the learned counsel the respondents submitted that since the petitioner has not filed reply to the Show Cause Notice within the stipulated time, the online portal will not record the filing of such returns and therefore, the 2nd respondent will not be in a position to take note of such events.

8. The only reason for cancellation of registration is that the petitioner has not filed the returns. A perusal of the Show Cause Notice dated 11.05.2019 would show that the petitioner was directed to furnish a reply on or before 20.05.2019 and appear for personal hearing on that date. As it is seen that the petitioner has filed the returns on 17.05.2019, which is evident from the screen shot filed before this Court, this Court is of the view that the 2nd respondent can consider the claim of the petitioner for revoking the cancellation of registration by taking note of the returns filed on 17.05.2019 alongwith the tax liability, if any.

9. Accordingly, this Writ Petition is allowed and the matter is remitted back to the 2nd respondent to consider the case of the petitioner for revocation of the cancellation of registration based on the returns already filed by them alongwith necessary taxes. Such exercise shall be done by the 2nd respondent as expeditiously as possible, at any event, within

a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rgr

To

1.The Assistant Commissioner.
Goods and Services Tax Department,
Chennai North Commissionerate
Range III,
No.26/1, Mahatma Gandhi road,
Nungambakkam,
Chennai - 600 034.

2.The Superintendent,
Goods and Services Tax Department,
Chennai North Commissionerate
Range III,
No.26/1, Mahatma Gandhi road,
Nungambakkam,
Chennai - 600 034.

+1cc to Mr.K.Senguttuvan, Advocate sr.93116
+1cc to M/s.Hemalatha, Advocate sr.93433(15/11/2019)

W.P.No.28898 of 2019

sr(co)
nr 11/11/2019