

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.1807 of 2020
and WMP.Nos.2101 & 2104 of 2020

SARABA INDIA

Rep. by its Proprietor - R. Balaji
No.68/98 2B 2nd Floor 4th Avenue Aashirwaad
44th Street Ashok Nagar Chennai - 600 081. ..Petitioner

Vs.

Assistant Commissioner (Circle)
Kodambakkam -Zone -VI Chennai Central
No. 1 Grems Road Chennai - 600 006. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent passed in Reference Number ZA33111905432T dated 14.11.2019 and quash the same as the impugned proceedings is in violation of principles of natural justice and further direct the respondent to restore / activate the registration of the petitioner.

For Petitioner : Mr.N.Murali
For Respondent : Mr.A.N.R.Jeyapraphap
Government Advocate

O R D E R

The petitioner seeks a certiorari challenging an order of cancellation of registration under the provisions of the Central Good and Service Tax Act, 2017 dated 14.11.2019.

2. Learned counsel for the petitioner brings to my notice an order passed by the Central Board of Indirect Taxes, Customs in order No.1 of 2020 Central Board of Indirect Taxes and Customs in S.O. 2064 (E). dated 25.06.2020 to the following effect:

Government of India
Ministry of Finance (Department of Revenue)
Central Board of Indirect Taxes and Customs
Order No. 01/2020-
Central Tax New Delhi,
25th June, 2020

S.O.(E). --WHEREAS, sub-section (2) of section 29 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act) provides for cancellation of registration by proper officer in situations described in clauses (a) to (e) as under: -

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under subsection (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, willful misstatement or suppression of facts: Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

AND WHEREAS, sub-section (1) of section 169 of the said Act

provides for service of notice (opportunity of being heard); clauses (c) and (d) of said sub-section are as under: -

.....

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

.....;

AND WHEREAS, sub-section (1) of section 30 of the said Act provides for application for revocation of cancellation of the registration within thirty days from the date of service of the cancellation order;

AND WHEREAS, sub-section (1) of section 107 of the said Act provides for filing appeal by any person aggrieved by any decision or order passed by an adjudicating authority within three months from the date on which the said decision or order is communicated to such person and sub-section (4) of section 107 of the said Act empowers the Appellate Authority that it may, if he is satisfied that the appellant was prevented by sufficient cause from

presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month;

AND WHEREAS, a large number of registrations have been cancelled under subsection (2) of section 29 of the said Act by the proper officer by serving notices as per clause (c) and clause (d) of sub-section (1) of section 169 of the said Act and the period of thirty days provided for application for revocation of cancellation order in sub-section (1) of section 30 of the said Act, the period for filing appeal under section (1) of section 107 of the said Act and also the period of condoning the delay provided in sub-section (4) of Section 107 of the said Act has elapsed; the registered persons whose registration have been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act are unable to get their cancellation of registration revoked despite having fulfilled all the requirements for revocation of cancellation of registration; the said Act being a new Act, these taxpayers could not apply for revocation of cancellation within the specified time period of thirty days from the date of service of the cancellation order, as a result whereof certain difficulties have arisen in giving effects to the provisions of sub-section (1) of section 30 of the said Act;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Central Goods and Services Tax Act, 2017, the Central Government, on the recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely:--

1. Short title.- This Order may be called the Central Goods and Services Tax (Removal of Difficulties) Order, 2020.--

2. For the removal of difficulties, it is hereby clarified that for the purpose of calculating the period of thirty days for filing application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act for those registered persons who were served notice under clause (b) or clause (c) of sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and where cancellation order was passed up to 12th June, 2020, the later of the following dates shall be considered:-

- a) Date of service of the said cancellation order;
or
b) 31 st day of August, 2020.

3. The Commercial Taxes and Registration Department of the Government of Tamil Nadu has passed G.O.Ms.No.102 dated 26.06.2020 consequent upon the above CBIT Notification.

4. In the light of the aforesaid, the petitioner has sent an e-mail dated 30.07.2020 requesting that it may be permitted to withdraw the writ petition and seeking liberty to approach the Assessing Authority by the cut-off date provided in the Notification seeking restoration of registration.

5. Placing the e-mail on record, the writ petition is dismissed as withdrawn granting liberty as aforesaid. Connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Ska

To

The Assistant Commissioner (Circle)
Kodambakkam -Zone -VI Chennai Central
No. 1 Grems Road Chennai - 600 006.

+1cc to M/s.N.Murali, Advocate, S.R.No.26747

+1cc to Special Government Pleader, S.R.No.26871

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VSN II (CO)

KKV/19/08/2020