

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.5397 of 2020

Manikam Manivel  
Proprietor of M/s. Tirumala Industries  
No. 3 Ragavendra Swamy Street Athipet,  
Ambattur, Chennai 600058. ..Petitioner

Vs.

- 1 The Deputy Commissioner (ST)  
GST - Appeal Chennai II C.T Annex Building  
3rd Floor No. 1 Greams Road Chennai 600006.
- 2 The Assistant Commissioner (Circle)  
GST Nolambur Zone X, Chennai  
South, Chennai. ..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorari to call for the records pertaining to the order passed by the 1st respondent vide RC.No. 392/ 2019/ /A1 dated 31.01.2020 and quash the same it as illegal and arbitrary and against the principles of natural justice and consequently directing the 1st respondent to taken on file the petitioners appeal filed under section 107(1) of The Goods and Service Tax Act 2017 and consider the same.

For Petitioner : Mr.R.Chakkaravarthy

For Respondents : Ms.G.Dhanamadhri, G.A.

O R D E R

This writ petition seeks a certiorari challenging an order of rejection of appeal dated 31.01.2020 filed against the cancellation of registration dated 02.07.2019 under the provisions of the Central Good and Service Tax Act, 2017.

2. The Central Board of Indirect Taxes, Customs has passed an order bearing 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 sub-section (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 filed memo dated 06.08.2020 requesting that it may be permitted to withdraw the writ petition. The petitioner is so permitted to withdraw the Writ Petition and in addition is granted liberty to approach the Appellate Authority by the cut-off date provided in the Notification seeking restoration of registration.

5. Placing the memo on record, the writ petition is dismissed as withdrawn granting liberty as aforesaid. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1 The Deputy Commissioner (ST)  
GST - Appeal Chennai II C.T Annex Building  
3rd Floor No. 1 Greams Road Chennai 600006.

2 The Assistant Commissioner (Circle)  
GST Nolambur Zone X Chennai  
South Chennai.

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AJS (CO)  
RV (28/10/2020)