IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.14346 of 2021
and
W.M.P.Nos.15232 to 15234 of 2021

(Through Video Conferencing)

Nativus Trading Pvt. Ltd.
Rep. by its Manager,
R.Hariharasubramanian
Aged about 66 years,
14, Arts College Road,
Coimbatore - 641 018. ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Trichy Road Circle, Coimbatore.

2.The Joint Commissioner (Computer Systems),
Office of Commissioner of Commercial Taxes,
Ezhilagam, Chennai - 600 005. ... Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Email proceedings in Help Desk TNCTD Email dated 02.03.2021 at 05:20:06 PM IST of the second respondent, quash the same and consequently direct the respondents to amend the effective date as 20.05.2017 in the CST Registration Certificate of the petitioner company and also direct the respondents to activate the portal permitting the petitioner company to generate Form C declarations or in the alternative direct the respondents to issue manual Form C declarations.

For Petitioner : Mr.S.Raveekumar
For Respondents : Mr.D.Ravichander,
Spl. Govt. Pleader

O R D E R

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to :-

i. call for the records relating to the impugned

Email Proceedings in Help Desk TNCTD Email dated 02.03.2021 at 05:20:06 PM IST of the second respondent;

ii.quash the same;

iii.direct the respondents to amend the effective date as 20.05.2017 in the CST Registration Certificate of the petitioner company; and

iv.direct the respondents to activate the portal permitting the petitioner company to generate Form C declarations or in the alternative direct the respondents to issue manual Form C declarations.

2. By the impugned Email Proceedings dated 02.03.2021 of the second respondent, the petitioner has been informed that the effective date in the CST Registration Certificate granted under Section 7(1)/7(2) of the Central Sales Tax Act, 1956 cannot be amended and the request of the petitioner for amendment of the CST Registration Certificate under the provisions of the Central Sales Tax (Registration and Turnover) Rules, 1957 (hereinafter referred to as Rules) cannot be accepted.

3. Appearing on behalf of the petitioner, the learned counsel for the petitioner submits that the petitioner has filed an application in terms of Rule 4(1) of the aforesaid Rules by declaring the effective date of business as 20.05.2017. It is submitted that the respondents have however granted the CST Registration Certificate to the petitioner on 20.06.2017 giving the effective date of commencement of business as 07.06.2017.

4. It is submitted that there was mistake in the CST Registration Certificate granted to the petitioner and under these circumstances, the petitioner approached the first respondent under Rule 7(1) of the Central Sales Tax (Registration and Turnover) Rules, 1957 for amending the date of commencement of business as 20.05.2017.

5. Appearing on behalf of the respondents, the learned Special Government Pleader submits that the application for registration under the Central Sales Tax Act, 1956 and the Central Sales Tax (Registration and Turnover) Rules, 1957 was received only on 19.06.2017 and therefore, the the effective date given as 07.06.2017 in the CST Registration Certificate cannot be amended.

6. It is submitted that the petitioner has approached the respondents for amendment of the effective date in the CST Registration Certificate long after the Certificate was granted

and after a lapse of three years. Therefore, on this ground also, the application for amending the CST Registration Certificate cannot be entertained.

7. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the application filed by the petitioner for amendment of CST Registration Certificate and the intra-departmental communications exchanged between the first and second respondents.

8. The application filed by the petitioner on 07.06.2017. It clearly declares the commencement of business as 20.05.2017 which is evident from Sl.No.9 of the Application filed by the petitioner for registration. The copy of the application also bears the date of acknowledgment as 07.06.2017. In the said application, the petitioner has clearly mentioned the date of commencement of business as 20.05.2017 and therefore the arguments of the learned Special Government Pleader appearing for the respondents that the application was only received on 19.06.2017 cannot be countenanced. Even if it is considered in the application filed on 19.06.2017, the application filed would be consonance with Rule 4(1) of the Central Sales Tax (Registration and Turnover) Rules, 1957 as the application would be within 30 days from 20.05.2017.

9. Apart from above, it is the case of the respondents that the petitioner had filed the application at a later point of time. The only reason given in the impugned Email Communication dated 02.03.2021 of the second respondent is that the effective date cannot be amended. It is also noticed that though the authorized representative of the petitioner has sent an Email requesting the amendment of CST Registration Certificate on 13.10.2020 at 4:59:24 PM, the second respondent has informed the rejection of the request to the petitioner vide impugned Email Communication dated 02.03.2021 only. That apart, it is also noticed that the petitioner has sent two letters dated 19.09.2020 and 07.12.2020 to the first respondent and the intra office communication has been exchanged between the first and second respondents on 07.12.2020.

10. Though the arguments of the learned Special Government Pleader appearing for the respondents are that the application for amending the CST Registration Certificate has been made belatedly on 19.09.2020, nevertheless, there is no embargo under the aforesaid Rules to amend the date in the CST Registration Certificate. It is noticed that under the aforesaid Rules, such application for amendment cannot be made if the records otherwise indicate that the petitioner had not indeed filed the application for registration on 07.06.2017 by declaring the

effective date of commencement of business as 20.05.2017. The records will be available with the respondents and therefore the respondents cannot reject the request of the petitioner merely stating that it is not possible to amend the Certificate at a later point of time. It was for the respondents to make suitable internal changes in their Web Portal to amend the Certificates of registration.

11. Rule 7(1) of the aforesaid Rules also makes it clear that the application can be entertained for amending the CST Registration Certificate. There is no also limitation prescribed therein. Therefore, the respondents are directed to make suitable corrections in the CST Registration Certificate granted to the petitioner, within a period of thirty (30) days from the date of receipt of a copy of this order.

12. This Writ Petition therefore stands allowed with the above observations. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Commissioner (ST),
   Trichy Road Circle, Coimbatore.

2. The Joint Commissioner (Computer Systems),
   Office of Commissioner of Commercial Taxes,
   Ezhilagam, Chennai - 600 005.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.61706
+1cc to the Special Government Pleader,(Tax) S.R.No.62016

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SVI(CO)
CT/16/12/2021