BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1819 of 2021
and
W.M.P.(MD)No.1549 of 2021

M/s.Thangaraaj General Store,
Rep. by its Proprietor,
T.Thangamani,
W/o.Thangaraj,
51B, Thiru.Vi.Ka.Road,
Karur. ... Petitioner

Vs.

1. The Joint Commissioner(ST),
Commercial Tax Building,
2nd Floor, Prough Road,
Erode - 638 001.

2. The Deputy Commissioner(CT),
Commercial Tax Building,
North Pradhakshnam Road,
Karur - 639 001.

3. The Assistant Commissioner(South),
Commercial Tax Building,
North Pradhakshnam Road,
Karur - 639 001.

4. The Nodal Officer,
O/o.The Commissioner of Commercial Taxes,
Computer Centre, PAP.JM Building 4th Floor,
Greems Road,
Chennai - 600 006. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the fourth respondent dated 14.10.2020 and quash the same and consequently directing the fourth respondent to rectify the error occurred in the particulars of GSTIN number in Reg. No.33AGWPT4386L1ZD dated 26.06.2017 of M/s.Thangaraaj General Store and accept the accounts with claim of input credits without imposing any late fee, penalty and interest.

For Petitioner : Mr.AN.Ramanathan,
for Mr.K.Balasubramani.

For Respondents : Ms.J.Padmavathi Devi,
Special Government Pleader.

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O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner is the proprietor of M/s.Thangaraaj General Stores. The petitioner's husband Thangaraj is running a business in the name of style of M/s.Revathi Agencies. While M/s.Thangaraaj General Stores is located in premises bearing door No.51B, Thiru.Vi.Ka.Road, Karur, M/s.Revathi Agencies is being run from the premises at 30/1, NA.Prahmatheertham Road, Jawahar Bazaar, Karur. Both the businesses were registered under the Tamil Nadu Value Added Tax Act, 2006. Following the introduction of GST regime, migration took place. When the petitioner filled in the relevant details, by mistake, the petitioner had given the address of M/s.Revathi Agencies as the address for M/s.Thangaraaj General Stores. In fact both the forms were accepted and GST numbers were assigned for both the entitees. Since both the invoices reflected the same office address, GST number assigned for the petitioner became inoperative. As a result, the petitioner could not file those annual returns.

3. In the meanwhile, the petitioner sent a letter dated 06.12.2017 seeking rectification of the mistake committed by the department. The petitioner engaged herself in protracted correspondence with the authorities. Since no reply was forthcoming, she filed W.P.(MD)No.10180 of 2020. Vide order dated 03.09.2020, I permitted the petitioner to move the nodal officer and the nodal officer was directed to dispose of the representation submitted by the petitioner. Pursuant to the direction given by this Court, the nodal officer issued impugned communication informing the petitioner that the petitioner's request was not possible of compliance because the petitioner did not act within the stipulated time. It was also noted that no specific direction has been passed by this Court in the matter. This communication rejecting the petitioner's request is under challenge in this writ petition.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of this writ petition.

5. Per contra the learned counsel appearing for the Special Government Pleader appearing for the respondents states the impugned order does not call for any interference and she wanted this Court to dismiss this writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. There is no doubt that M/s.Thangaraaj General Stores is an entity different from M/s.Revathi Agencies. One is run by the husband and the other is run by the wife. Entering the address of M/s.Revathi Agencies in the form filed by M/s.Thangaraaj General Stores appears to be an inadvertent mistake. In fact the GST council itself took cognizance of such mistakes that were committed during migration from earlier tax regime to GST regime. Such mistakes were characterised into two, namely, technical and non-tehcnical. In the case on hand, the mistake is a non-technical.

8. The petitioner had moved the respondents well in time for correcting the same. Therefore, the respondents are not correct in taking the stand that the petitioner did not act within time. Even according to the respondents, the last date for applying for migration was 28.02.2019. It is seen from the materials enclosed in the typed set of papers that the petitioner had been knocking the doors of the respondents since 06.12.2017. Since the mistake appears to be non-technical and since the petitioner had already moved the respondents in time, the impugned order in this writ petition stands quashed. The fourth respondent is directed to forward the petitioner's application to GSTIN and facilitate the rectification of error that occurred while filling the relevant form by the petitioner herein.

9. The entire exercise shall be concluded within a period of eight weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-5675[F] dated 17/02/2021)

Order made in
W.P.(MD)No.1819 of 2021 and
W.M.P.(MD)No.1549 of 2021
16.02.2021

KUN(CO)
SRS (08/03/2021) 4P : 6C