IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.Nos.3877 and 3880 of 2023
and
W.M.P.Nos.3950 and 3952 of 2023

DDA Tyres and Services,
Represented by its Sole Proprietor,
Mr.Ashokan Harishkumar. ... Petitioner
(in both W.Ps.)

Vs

1. Deputy Commissioner of GST,
   Commercial Taxes Building,
   Pitchards Road,
   Salem – 7.

2. Deputy State Tax Officer,
   Office of the Deputy State Tax Office,
   Dharmapuri. ... Respondents
   (in both W.Ps.)

Prayer in W.P.No.3877 of 2023: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus for condoning the delay of 132 days and calling for the records connected with the impugned order passed by the first respondent in Appeal No.362 of 2022 dated 21.11.2022 and quash the same.

Prayer in W.P.No.3880 of 2023: Petition filed under Article 226 of the

Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus for condoning the delay of 132 days and calling for the records connected with the impugned order passed by the first respondent in Appeal No.364 of 2022 dated 28.11.2022 and quash the same.

For Petitioner	: Mr.P.Vasudevan (in both W.Ps.)
For Respondents	: Mr.V.Prasanth Kiran Government Advocate (in both W.Ps.)

COMMON ORDER

By this common order both the writ petitions are being disposed of.

2. The petitioner has filed W.P.No.3877 of 2023 challenging the Impugned Order dated 21.11.2022 passed in Appeal No.362 of 2022 declining to condone the delay of 132 days in filing appeal against order dated 06.05.2022 cancelling the petitioner's GST Registration.

3. The operative portion of the Impugned Order reads as under:-

"The Appellate Authority 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.

As per the above provision, if the appellants has been prevented for sufficient cause from non-presenting the appeal within the aforesaid period of three months as per Section 107(1) of the TNGST Act, 2017, the appellant has been allowed a further period of one month, only if the appellant has been prevented by sufficient cause from presenting the appeal within period of three months.

Therefore on any accounts an appeal presented after a period of four months form the date of receipt of the decision or order being communicated to a such person shall not be entertained by the Appellate Authority functioning under the TNGST Act 2017.

In the appellants case , the order has been communicated to the appellants on 03.06.2022 through online. The appellants had time till 01.09.2022 to file appeal against the order before this forum.

Further the appellant as per Section 107(4) also had one month time for sufficient cause from non-presenting the appeal within the period of three months as per Section 107(1) of the TNGST Act. Such time of further one month expires on 01.10.2022.

The appellant has filed the appeal before this forum only on 10.11.2022 by a further delay of one month and nine days for which there is no provision under the TNGST Act 2017 to consider the delay and *entertain the appeal filed by the appellant. Hence I have no other option except to dismiss the appeal filed by the appellant, since the appeal has been filed beyond the condonable limit with a delay of 39 days."*

4. However, it is noticed that the Government has itself issued a notification giving amnesty to file application vide G.O.Ms.No.36, Commercial Taxes and Registration (B1) dated 05.04.2023. Relevant portion of the said Notification reads as under:-

*"**No.II(2)/CTR/351(a-2)/2023**.*

In exercise of the powers conferred by Section 148 of the Tamil Nadu Goods and Services Tax Act, 2017 (Tamil Nadu Act 19 of 2017) (hereinafter referred to as the said Act), the Governor of Tamil Nadu, on the recommendations of the Council, hereby notifies that the registered person, whose registration has been cancelled under clause (b) or clause (c) of sub-section (2) of Section 29 of the said Act on or before the 31st day of December, 2022 and who has failed to apply for revocation of cancellation of such registration within the time period specified in Section 30 of the said Act as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration, namely:-

(a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;

> (b) *the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns;*
>
> (c) *no further extension of time period for filing application for revocation of cancellation of registration shall be available is such cases.*
>
> *Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in Section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under Section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of Section 30 of the said Act."*

5. Considering the above, the Writ Petition in W.P.No.3887 of 2023 is closed by giving liberty to the petitioner to approach the authorities in terms of the above notification. In view of similar facts and circumstances, the Writ Petition in W.P.No.3880 of 2023 is also closed with the above liberty. The petitioner shall pay necessary charges towards late filing fee and other amounts as is specified under the above

notification. If such application is filed, the petitioner's registration shall be restored in accordance with the above notification. No costs. Consequently, connected miscellaneous petitions are closed.

23.08.2023
(1/2)

Neutral Citation: Yes/No
Index : Yes/No
Speaking/Non-Speaking Order
rgm

To

1. Deputy Commissioner of GST,

Commercial Taxes Building,
Pitchards Road,
Salem – 7.

2. Deputy State Tax Officer,
Office of the Deputy State Tax Office,
Dharmapuri.

C.SARAVANAN, J.

rgm

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