



WEB COPY

W.P.No.7000 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.03.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.7000 of 2023

M/s.Jony Electricity India Engineering Private Limited,
Represented by Director
Subhadra W/o Narasimma Raghavan
B-3 Monisha Sri Hari Apartment,
Ragavendra Salai,
Chitlapakkam,
Chennai-600 064.

... Petitioner

Vs.

1.The Appellate Authority
The Joint Commissioner of GST & Central Excise,
Appeals-I, Nungambakkam,
Chennai-600 034.

2.Superintendent of GST & Central Excise,
Egmore Division, Chennai North Commissionerate
Chennai.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records from the 1st Respondent and quashing the impugned order of the 1st Respondent dated 07.12.2022 in Order-in-appeal No.328/2022 (GSTA-I) (JC).

For Petitioner : Mr.S.Sundar

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

**ORDER**

Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondents and is armed with instructions to proceed with the matter even at this juncture. Hence, by consent of both sides, this Writ Petition is disposed finally even at the stage of admission.

2.The petitioner has challenged an order passed by the Joint Commissioner of GST & Central Excise/R1, the appellate authority under the provisions of the Tamil Nadu Goods and Services Act, 2017 (in short 'Act').

3.The petitioner is a Private Limited Company engaged in Engineering services, and registered under the provisions of the Act. While this is so, due to an alleged misunderstanding between the company and the erstwhile Director, the change of name of authorised signatory was not effected in time and hence the returns of turnover under the Act could not be filed.

4. In light of the statutory provisions requiring filing of statutory returns within the periods stipulated and the petitioner's admitted defaults, the second respondent, i.e., the Assessing Authority of the petitioner, issued a notice of cancellation of registration on 02.12.2021, initiated online through the official portal.

5. The petitioner neither submitted any response nor appeared for a personal hearing that had been fixed in the aforesaid notice. Though there is



a tentative statement of the petitioner that he had been unaware of the same, this Court has taken a view in W.P.No.25666 of 2022 that service effected online in terms of Section 169(1)(d) of the Act, constitutes valid service. R2 thus proceeded to pass an order dated 10.01.2022 cancelling the registration of the petitioner, also uploaded on the same day in the official portal.

6. The petitioner claims to have thereafter approached the second respondent seeking revocation of the cancellation. He was informed by the Assessing Authority that the request for revocation was made after the statutory period and hence proceeded to file an appeal before the appellate authority. An appeal had thus been filed on 18.08.2022 before R1 belatedly.

7. The provisions of Section 107 of the Act deal with 'Appeal' and provide that an appeal be filed as against any order of the State Goods and Services Tax Act within a period of 90 days. There is a period of one month after the aforesaid period of 90 days, for which the authority may grant condonation, if convinced by the explanation set out by the assessee. The appeal of petitioner has been filed after a period of 6 months, over and above the statutory limitation of 90 + 30 days.

8. In light of the above admitted position, the dismissal of the appeal by R1 is seen to be in order. The petitioner, to be noted, has set out no explanation, let alone justifiable explanation, for the condonation of even the one month extension statutorily provided and thus the further delay of 6 months over and above the statutory limitation is fatal to its case.



W.P.No.7000 of 2023



Dr.ANITA SUMANTH,J.

9. The impugned order is confirmed and this Writ Petition stands dismissed. No costs.

07.03.2023

Index:Yes/No
Speaking order
Neutral Citation : Yes
vs

To

- 1.The Appellate Authority
The Joint Commissioner of GST & Central Excise,
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Chennai-600 034.
- 2.Superintendent of GST & Central Excise,
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