IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.03.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.7390 of 2023 and
WMP.No.7476 of 2023

M/s.Shree G G Enterprises,
Represented by its Proprietor,
T.Chandru,
No.47, Anna Street, Redhills,
Chennai-600 052.
Tamil Nadu. ... Petitioner

Vs

1.The Deputy Commissioner (ST),
GST-Appeal,
Chennai-I,
Chennai-600 006.
Tamil Nadu.

2.The Assistant Commissioner (ST),
Madhavaram Assessment Circle,
Chennai-600 003.
Tamil Nadu. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the files of 2nd Respondent in GSTIN/UIN:3ADJPC0614J1Z2 vide Impugned Show Cause Notice in form GST REG-17 No.ZA331118068959Z dated 24.11.2018 and Impugned Order in form GST REG-19 No.ZA3306220957865 Dated 24.06.2022 passed by the 2nd Respondent and quash as being illegal, Ultra Vires, void ab-initio, arbitrary and unconstitutional within such time as this Court may deem fit and proper in the facts and circumstance of the case.

For Petitioner : Mr.K.Thyagarajan
For Respondents : Ms.E.Renganayaki
Government Advocate (Taxes)

O R D E R

Ms.E.Renganayaki, learned Government Advocate accepts notice for the respondents and is armed with instructions to proceed with the matter finally even at this juncture. Hence, by consent of both sides, this Writ Petition is taken up for final disposal even at the stage of admission.

2. The petitioner is grossly belated in approaching this Court. The challenge is to order of cancellation of registration dated 24.06.2022 and the show cause notice that preceded it, is dated 24.11.2018.

3. The preliminary road block that the petitioner would have to get past is to explain the substantial intervening delay from November, 2018, when it has, admittedly, received the show cause notice, till date.

4. The maintainability of the Writ Petition is itself subject to the petitioner having complied with the statutory timelines for availing of the remedies provided. Though wide discretion is available to entertain matters even beyond the period of statutory limitation, the exercise of such discretion is wholly dependent on the petitioner establishing a justification or warrant for the delay.

5. In this case, the affidavit filed is silent on the aspect of delay. Despite repeated probing, learned counsel for the petitioner also has no explanation to offer for the intervening delay.

6. The petitioner's argument instead is on a point of law to state that at the time of issuance of show cause notice, he had only dues of tax relating to 3 months, hence the show cause notice is itself bad in law. However, there are two reasons why this argument is not liable to accepted.

7. The petitioner had challenged the order of cancellation of registration dated 24.06.2022 in first appeal. To be noted, that at the time when the order was passed, admittedly no returns accompanied by proof of remittance of taxes had been filed for the entirety of the period, from December, 2021 till June 2022 and till date, which is far in excess of the 6 month period provided under the Statute.

8. The appeal has been instituted by the petitioner before the first appellate authority belatedly and hence has been dismissed by the authority on 11.01.2023 as belated by a period of 2 months and 10 days beyond the statutorily provided period of 90 + 30 days.

9. In such circumstances and seeing as there is no explanation, let alone justifiable explanation for the delay despite this Court repeatedly seeking such reasons, the impugned order is found to be valid in law and is confirmed.

Dr.ANITA SUMANTH,J.

10. This Writ Petition is dismissed, as is the connected Miscellaneous Petition. No costs.

10.03.2023

Index : Yes / No
Speaking/non-speaking Order
Neutral Citation:Yes/No
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