IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.03.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.6927 of 2023

Sri. Nissar Mohammed Imran
rep. by its Authorised Signatory
No.1 Nungambakkam Park Side Street,
Lake Area, Chennai – 600 034.

... Petitioner

Vs.

1. Deputy Commissioner (ST),
   GST – Appeal, Chennai – I,
   Chennai – 600 006.

2. Assistant Commissioner, (Circle),
   Valluvarkottam, Chennai.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records on the files of the first respondent in his proceeding in Rc.No.134/2023/A1 and quash the proceeding dated 16.02.2023 passed therein and further direct the second respondent to revive the petitioner's registration in GSTIN/UIN:33AYQPM7791J2ZL.

For Petitioner : Mr.C.Baktha Siromoni
For Respondents : Ms. Amrita Dinanakaran
Government Advocate

ORDER

Ms.Amrita Dinakaran, learned Government Advocate accepts notice for the respondent 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 Deputy Commissioner (ST)/R1, the appellate authority under the provisions of the Tamil Nadu Goods and Services Act, 2017 (in short 'Act').

3. The petitioner was engaged in the business of food take-away and was registered under the provisions of the Act. While this is so, he claims that his business had been affected by the Covid-19 pandemic and on account of this, he had not filed any returns. He had been struggling, according to him, with financial issues abroad as well.

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 on 06.07.2022, 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. There is a tentative statement of the petitioner that he had been unaware of the same.

However, 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 is a valid method/mode of service and this order has attained finality as on date. R2 thus passed an order dated 21.07.2022 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 08.02.2023 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 condonable 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 petitioner. The appeal of petitioner has been filed after a period of 2 months and 17 days, 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 provided and thus the further delay of 2 months and 17 days over and above the statutory limitation is fatal to its case.

Dr.ANITA SUMANTH,J.

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

06.03.2023

Index:Yes/No
Speaking order
Neutral Citation : Yes
sl
To

The State Tax Officer (ST),
Krishnagiri – I Assessment Circle,
Krishnagiri.

W.P.No.6927 of 2023