IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.03.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.9450 of 2023
and WMP No.9520 of 2023

M/s.Jayasri Tiles & Plyworld
represented by its Partner
P.Janarthanan

... Petitioner

Vs

1. The Joint Commissioner of GST (Appeals-1),
   O/o Commissioner of GST & Central Excise (Appeals-1),
   No.26/1, Mahatma Gandhi Road,
   Nungambakkam, Chennai – 600 034.

2. The Superintendent of CGST & Central Excise,
   Range – V, Anna Nagar Division, Chennai Central,
   Arumbakkam, Chennai – 600 106.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Ref.No.ZA33D122008647Y dated 04.01.2022 and the consequential order of the 1st respondent in Appeal No.06-12/2023 (GSTA-1) (IC) dated 27.01.2023 and quash the same as illegal, arbitrary and against the principles of natural justice and further direct the 2nd respondent to restore the Registration Certificate cancelled vide his proceedings in Ref.No.ZA330122008647Y dated 04.01.2022.

For Petitioner : Mr. K.Soundararajan

For Respondents : Mr.K.Mohana Murali
Senior Panel Counsel

O R D E R

Mr.Mohana Murali, learned Senior Panel Counsel accepts notice for the respondents and is armed with requisite instructions to enable final disposal of this matter, even at this juncture. Hence, by consent of both sides, this Writ Petition is disposed even at the stage of admission.

2. The petitioner was an assessee under the Central Goods and Services Tax Act, 2017 (in short 'Act'). Admittedly, the petitioner had not filed returns for a period in excess of six months, a show cause notice has been issued on 02.12.2021 proposing to cancel registration. The petitioner was called for a personal hearing.

3. According to the petitioner, there was some glitch in the tally software that had been installed by the private consultancy firm and he had thus failed to view the portal and note the issuance of show cause notice or notice fixing of personal hearing. Admittedly, it did not comply with the notice for personal hearing.

4. An order of cancellation of registration came to be passed on 04.01.2022. An appeal in terms of Section 107 of the Act ought to have been filed on or before 04.02.2022, but the petitioner has belatedly filed the appeal

on 23.12.2022 with a delay of 263 days. The petitioner has not given any explanation, let alone valid explanation or justification for the interim delay of 263 days. The appeal has thus come to be dismissed by way of impugned order dated 27.01.2023, the appellate authority rightly stating that the Statute does not permit condonation of delay beyond the stipulated period.

5. Though this Court has taken a view in several matters that the power under Article 226 of the Constitution of India would entitle the Court to consider genuine cases where the delay has been occasioned either for medical or other reasons, such power, is evidently, to be exercised sparingly and only in genuine cases.

6. In the present case, no valid explanation has been furnished to this Court, as to what caused the delay of 263 days. Hence, I see no reason to intervene in this matter.

7. In light of the discussion as above, this Writ Petition is dismissed in limine. No costs. Connected Miscellaneous Petition is also dismissed.

28.03.2023

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

Dr.ANITA SUMANTH,J.

sl

To

1. The Joint Commissioner of GST (Appeals-1),
   O/o Commissioner of GST & Central Excise (Appeals-1),
   No.26/1, Mahatma Gandhi Road,
   Nungambakkam, Chennai – 600 034.

2. The Superintendent of CGST & Central Excise,
   Range – V, Anna Nagar Division, Chennai Central,
   Arumbakkam, Chennai – 600 106.

W.P.No.9450 of 2023
and WMP No.9520 of 2023

28.03.2023