IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.03.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.9682 of 2023
and WMP Nos.9742 and 9743 of 2023

Snowy River Professional Dry Cleaners
Private Limited
rep. by its Managing Director
Rayyan Ahmed

... Petitioner

Vs

The Assistant Commissioner (Circl) (ST) (GST)
Mylapore: Zone – VII, Chennai (East),
692, MHU Complex, Anna Salai,
Nandanam, Chennai – 600 035.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 05.11.2019 bearing Reference Number:ZA331119015274W on the file of the respondent and quash the same as being contrary to law and defective on the following among other grounds and consequentially direct the respondent to forthwith restore the GSTIN/UIN:33AVCS7040L1ZT of the petitioner.

For Petitioner : Mr. S.Sathish

For Respondent : Ms.E.Ranganayaki
Additional Government Pleader

ORDER

The petitioner challenges an order of cancellation of registration. The order is dated 05.11.2019 and there is no dispute that it has been uploaded on the same day. The order has been preceded by a show cause notice dated 22.10.2019.

2. While the impugned order states that there is a reply received on 01.11.2019, in fact, the petitioner fairly states that there has been no response to the show cause notice, either by way of reply or by way of personal appearance. It is in the aforesaid circumstances and since there was failure to file returns for six preceding months, that the impugned order has come to be passed.

3. The petitioner has not availed of the statutory remedies of revocation of cancellation of registration under Section 30 or statutory appeal under Section 107 of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'Act') in time.

4. The appeal under Section 107 of the Act has been filed only on 15.03.2023 and is yet to be admitted. To be noted, that the appeal is far

beyond the period of 90 + buffer period of 30 days that is provided under the statutory provision.

5. Courts exercising extraordinary jurisdiction are loath to intervene where statutory remedies have not been sought within the time limits stipulated. However, an exception is made in those cases where the assessee concerned is in a position to justify the intervening delay. In such cases, even if the Statute places an embargo, Courts have taken it upon themselves to exercise extraordinary jurisdiction and condone the delay.

6. Thus, notwithstanding that the impugned order is passed on 05.11.2019, this Court had specifically sought a clarification from the learned counsel for the petitioner the reason for the delay. No specific reasons are forthcoming except to state that the Covid-19 pandemic had intervened and that the business was at an all time low. However, this reason does not figure in the affidavit and it is too general to be accepted.

7. Learned counsel for the petitioner would also point out a flaw in the show cause notice to the effect that the GSTIN number of the petitioner has not been properly set out.

8. However, these are, if at all, flaws, that ought to have been pointed out at the relevant point in time and this would not persuade the Court to take a

Dr.ANITA SUMANTH,J.

view contrary to the statutory provision and the consistent stand being taken by the Courts in this regard.

9. For the reasons as set out aforesaid, impugned order dated 05.11.2019 is not interfered with and this Writ Petition and the connected Miscellaneous Petitions are dismissed. No costs.

29.03.2023

Index : Yes / No
Speaking Order
Neutral Citation: Yes
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To

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