IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.03.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.9736 of 2023
and WMP Nos.9816 & 9819 of 2023

ONS Electrical
Represented by its Propritrix
P.Y.Geetha Rani
No.35/28, Medavakkam
2nd Street, Kilpauk
Chennai – 600010. ... Petitioner

Vs

1.Assistant Commissioner (ST)
Ayanavaram Assessment Circle
F 50, 1st Avenue,
Anna Nagar East
Chennai – 600 102.

2.Deputy Commissioner (ST)
GST Appeal – Chennai – I
No.1, Greams Road
Chennai – 600006. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the impugned proceedings of the first respondent passed in Reference Number

ZA330522210422A dated 31.05.2022 and quash the same, as the impugned proceedings of the first respondent is in violation of principles of natural justice, cryptic, arbitrary and further direct the first respondent to restore and activate the registration of the petitioner granted under the TNGST Act 2017.

For Petitioner : Mr. N.Murali
For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate accepts notice for the respondents and is armed with instructions to enable final disposal of this matter, even at the stage of admission.

2. The petitioner is a sole proprietrix, a woman entrepreneur, who claims to have commenced business in the year 2018 and dealing with electrical items. She has obtained a registration under the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 (in short 'TNGST Act').

3. Admittedly, she has defaulted in filing returns from January, 2022 on account of various factors and on that account, the registration was proposed to be cancelled. A show cause notice was issued on 19.05.2022 and she had engaged the services of one Ajith, a Consultant to respond to the show cause notice as well as to regularise the filing of returns. Unfortunately and as per

paragraph Nos.8 and 9 onwards of the affidavit filed in support of the Writ Petition, the Consultant had not attended to the matter properly, as a result that the impugned order of cancellation came to be passed on 31.05.2022.

4. She avers that the factum of cancellation itself came to her knowledge only in October, 2022 when she was informed that her registration was inactive by one of her suppliers. It is only thereafter when she contacted the Consultant, and he downloaded the order of cancellation from the portal and as against the same, the petitioner has e-filed an appeal on 21.10.2022.

5. As against the order of cancellation dated 31.05.2022, an appeal ought to have been filed on or before 01.10.2022. An appeal was, admittedly, e-filed with a delay of 21 days. The petitioner is required to file a manual copy of said appeal, also within the period of limitation. But this was filed only on 09.11.2022 which expands the delay. However, in construing the delay one can take note of the fact that the appeal has been e-filed with the delay of 21 days for which reason the appellate authority has rejected the same.

6. I am of the considered view that having regard to the reasons that have been cited by the petitioner and the quantum of delay, this is a case which

deserves intervention by the Court.

7. Learned counsel for the petitioner confirms that all the returns have been filed and tax paid upto date, received and acknowledged on 21.10.2022.

8. Learned Government Advocate also does not raise any serious objection to the suggestion of the Court that the delay may be condoned and the appellate authority be directed to consider the matter on merits.

9. In light of the above, the appeal stands restored to the Registry of the appellate authority/R2. The appeal shall be numbered, petitioner heard and orders passed by R2 in accordance with law, within a period of eight (8) weeks from date of receipt of a copy of this order, ensuring compliance with all statutory conditions, barring limitation.

10. This Writ Petition stands allowed No costs. Connected Miscellaneous Petitions are closed.

30.03.2023

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

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Dr.ANITA SUMANTH,J.

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