IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.04.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.10571 of 2023

Natarajan Satheesh Kumar,
Prop. S.R.S. Construction
41/39, Thiruvenkata Nagar,
Palakkad Main Road, Vadugapalayam,
Pollachi, Coimbatore District. ... Petitioner

Vs

The Superintendent,
Pollachi Range II (Centre),
Pollachi West,
Office of The Assistant Commissioner,
GST & Central Excise,
GST Bhavan, Jothi Nagar,
D.Colony, Pollachi. ... Respondent

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 Respondent in his order in Reference Number ZA3309220421214 dated 14.09.2022 and quash the same as illegal and direct the Respondent to restore the Registration Certificate of the Petitioner in the Registration Number 33CLYPS2721R2Z3.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.S.Gurumoorthy
Senior Panel Counsel

ORDER

Mr.Gurumoorthy, learned Senior Panel Counsel accepts notice for the respondents and is armed with instructions to enable a final disposal of the matter at this juncture.

2.The petitioner challenges an order dated 14.09.2022 cancelling the registration under the provisions of the Central Goods and Services Tax Act, 2017 (in short 'Act'). The petitioner had, in fact, approached the appellate authority challenging the order of restoration claiming to have complied with the statutory conditions prescribed for that purpose, being filing of returns upto date of filing of appeal and settlement of all tax arrears till that time.

3.However, since the appeal was admittedly filed with a delay of 57 days and being cognizant of the position that there is no provision for condonation of delay beyond the period of 120 days (90+30), the petitioner had, withdrawn that appeal and has preferred to approach this Court by way of the present writ petition.

4.This writ petition has been instituted on 30.03.2023 and fortuitously on 31.03.2023 the Department of Revenue, Government of India has issued a Notification bearing No.03/2023-Central Tax, granting a scheme of Amnesty for all assessees in whose cases registration were cancelled prior to 31.12.2022. Circular No.3/2023 reads as follows:

'NOTIFICATION
NO. 83/2023-CENTRAL TAX

New Delhi, dated the 31st March, 2023

GSR.....(E).-In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies that the registered person, whose registration has been cancelled under clause (b) or clause (c) of sub section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration, namely:-

(a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;

(b) the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns;

(c) no further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of section 30 of the said Act.

[F. No. CBIC-20013/1/2023-GST]

(Alok Kumar)
Director'

5.Since the order of cancellation in this case is 14.09.2022, the scheme will be applicable to the petitioner subject to satisfaction of all conditions set out thereunder. Hence, and rightly learned counsel for the petitioner prefers to approach the authority seeking Amnesty.

6.This writ petition is closed with such liberty. No costs.

05.04.2023

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

To

The Superintendent,
Pollachi Range II (Centre),
Pollachi West,
Office of The Assistant Commissioner,
GST & Central Excise,
GST Bhavan, Jothi Nagar,
D.Colony, Pollachi.

Dr.ANITA SUMANTH, J.

vs

W.P.No.10571 of 2023

05.04.2023