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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.Nos. 14731, 14733, 14740, 14744, 14752, 14754 & 13558 of 2023
and
W.M.P.Nos.14248, 14252, 14253, 14255, 14263, 14264, 14269, 14270, 14277, 14280, 14281, 14282, 13232 and 13234 of 2023

WP.No.14731 of 2023 :-

M/s.Sakthi and Co.
Represented by its Authorised Signatory
Smt.K.G.Jaisri,
44, Mothu Pon Ilam,
Indira Gandhi Street,
Surampatti, Palayapalayam,
Erode – 638 011. ... Petitioner

Vs

1.The Assistant Commissioner (Circle),
Thindal.

2.The Deputy State Tax officer – 1 (FAC),
Office of the Assistant Commissioner (ST),
Thindal Assessment Circle, Erode. ... Respondents

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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the second respondent in GSTIN : 33ADFFS9512F1Z5/2017-18 and quash the proceeding dated 13.02.2023.

For Petitioner (in all WPs) : Mr.B.Raveendran

For Respondents (in all Wps) : Mr.C.Harsha Raj
Additional Government Pleader

COMMON ORDER

By this common order, all these writ petitions are being disposed of.

2.In W.P.No.13558 of 2023, the petitioner has challenged the impugned order dated 30.07.2022 cancelling the petitioner's registration for obtaining registration in contravention of Section 29(2)(e) of the GST Act, 2017.

3.It is the specific case of the petitioner that a mistake was committed by the person who was handling the petitioner's account even

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during the TNVAT regime prior to 30.06.2017 and the same mistake was carried forward after the GST Act came into force on 01.07.2017. It is submitted that the petitioner had actually shifted the place of business from the address given in the impugned notice to the address at No.4/134, Ram Nagar, Matrix Complex, Atthappampalayam, Vidhya Nagar, Thindal – 638 012.

4. It is further submitted that all the notices which preceded the impugned order were only hosted in the web portal which went un-noticed. It is further submitted that petitioner has also incidentally filed an application for revocation of the impugned order on 05.06.2023.

5. The learned counsel for the petitioner therefore submits that the notices seeking to recover the tax for all these Assessment years be kept in abeyance pending disposal of revocation application filed by the petitioner.

6. The learned Additional Government Pleader for the respondents on the other hand would submit that the petitioner had a total taxable

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turn over of about Rs.52,86,72,125/- in all these years has paid only a sum of Rs.4000/- in cash and balance tax has been paid only by debiting the amounts in the Electronic Credit Ledger under the provisions of the GST Act, 2017 under the rules made thereunder.

7. It is submitted that the petitioner is dealing of woven, fabrics of cotton and shirting fabrics, and was resorting to bill trading and to facilitate the passing of irregular and illegal credit to evade the tax and thereby denying the legitimate revenue to the exchequer.

8. That apart, it is submitted that the name of the partners in the registration certificate is different from the person who has signed the affidavit on behalf of the petitioner. On this count also, there is no scope for interference.

9. That apart, it is further submitted that the impugned order dated 30.07.2022. Neither an appeal is maintainable under Section 107 of the TNGST Act, 2017 nor an application for revocation under Section 30 of the GST Act, 2017 registration is maintainable which was purportedly

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filed on 05.06.2023. Therefore, it is submitted that these writ petitions are liable to be dismissed.

10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

11. Prima facie, it appears that the petitioner has committed mistake in obtaining registration with wrong address where the petitioner was not carrying on business. Whether the petitioner was indeed carrying on the business from the same address under the new Tax regime or not are not discernible from the documents filed before this Court.

12. In any event, the fact remains that the petitioner will continue to carry on business. Unless persons like petitioner are integrated back into the GST regime, they will continue to do business and evade tax. Considering the above, this Court had also passed detailed order in the

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case of **M/s.Suguna Cutpiece Center** Vs. **Appellate Deputy Commissioner (ST) (GST) and another**, 2022 (2) TMI 933.

13. Therefore to balance the interest of the State Revenue and the interest of petitioner, an option is given to the petitioner to pay the entire tax which was paid by the petitioner by debiting its electronic credit ledger amounting to Rs.2,64,29,543/- during the period in dispute.

14. The petitioner shall take a Demand Draft for a sum of Rs.2,64,29,543/- and hand it over to the respondents. On such payment, the registration of the petitioner stands revoked and the amount shall be debited towards the aforesaid tax liability. The petitioner shall file suitable application for amending the registration by giving the correct address and an undertaking the petitioner will not misuse the GST Registration.

15. The Department will also independently examine whether the petitioner was indeed carrying on the business from the address given in

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the Registration Certificate both under the VAT regime and thereafter under the GST regime.

16.Subject to such compliance, the Show Cause Notice dated 14.07.2023 shall be adjudicated on merits. In case, there is any violation on the part of the petitioner either in remitting the amount as ordered or failure to file a reply to Show Cause Notice within a period of thirty days, this order shall stand automatically vacated *sine die,* in which case, the respondents are at liberty to proceed further against the petitioner in accordance with law.

17. These writ petitions stand disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

31.08.2023

Index: Yes/ No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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Note: The practice of the Registry insisting on the address given in the impugned order may not be insisted. In this case, the petitioner has changed the address but has given the same address in the cause title and also in the first paragraph. In case litigants has changed their address, the Registry should insist on application for accepting the changes in the cause title/address.

To

1.The Assistant Commissioner (Circle),
Thindal.

2.The Deputy State Tax officer – 1 (FAC),
Office of the Assistant Commissioner (ST),
Thindal Assessment Circle, Erode.

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