**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

Dated: 15.06.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

**W.P.No.17825 of 2023**
**and WMP.Nos.16935 & 16938 of 2023**

Shri Isha Scraps
Represented by its Partner
S.Brinda
No.4/260 – 6A, Kadachanallur
Kumarapalayam, Namakkal - 638008 ... Petitioner

Vs

1.Superintendent
Tiruchengodu Rural
Pallipalayam Range
Erode-II – Salem Commissionerate
No.81, Bharathi Nagar
Veerappanchatram Post,
Soolai, Erode – 638 004

2.Joint Commissioner (Appeals)
Coimbatore
Office of the Commissioner of
GST & Central Excise (Appeals)
No.6/7, A.T.D Street, Race Course Road
Coimbatore – 641 018 ... 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 impugned proceedings of the first Respondent passed in Reference Number ZA330123032203G dated 07.01.2023 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 CGST Act 2017.

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|---|---|
| For Petitioner | : Mr.N.Murali |
| For Respondents | : Mr.Rajnish Pathiyil<br>Senior Panel Counsel |

**ORDER**

Mr.Rajnish Pathiyil, learned Senior Panel Counsel accepts notice for the respondents and is armed with sufficient instructions to enable a final disposal of this Writ Petition, even at the stage of admission.

2. The petitioner challenges an order of cancellation of registration dated 07.01.2023, passed in terms of the applicable provisions of the Tamil Nadu Central Goods and Services Tax Act, 2017 (in short 'Act').

3. Learned counsel for the petitioner only prays that the petitioner may be permitted to file a statutory appeal.

4. The reason for approaching this Court is that the petitioner has instituted a statutory appeal before the first appellate authority on 09.05.2023, albeit with a delay of 2 days. This delay has been suitably explained in the affidavit to state that the petitioner was unaware of the technicalities of procedures to be followed and hence had missed the uploading of the order in the GST portal. He also states that there was no communication either by e-mail or text to draw attention to the order uploaded in the portal and hence it

missed the same. It was only after a delay of 2 days when the order was noticed and necessary steps taken immediately.

5. This Court is of the considered view that the delay being only 2 days and sufficient reasons having been put forth to explain the same, the delay can well be condoned and I do so.

6. The appeal has been filed online by the petitioner on the GST portal. The applicable provision requires the petitioner to file a manual copy of the appeal within 7 days of e-filing. Thus, when the appeal was presented before the office of the appellate authority during the 2nd week of May, 2023, the appellate authority noted that the same had been filed with a delay of 2 days and hence the same was not received for issue of necessary form in GST APL-02. It is hence that this Writ Petition has come to be filed challenging the order of cancellation of registration.

7. Learned counsel for the petitioner would fairly accede to the position that the appropriate remedy is to permit the petitioner to pursue its statutory appeal.

8. Mr.Rajnish Pathiyil, learned Senior Panel Counsel for the respondents, fairly, bearing in mind the smallness of the delay and the bonafide explanation tendered by the petitioner, does not stand in the way of substantial justice being done by this Court by permitting the petitioner to pursue its statutory remedy and by condoning the delay.

**Dr.ANITA SUMANTH,J.**

9. In light of the above, the delay of 2 days in filing the appeal is condoned and the challenge to the order of assessment is rejected. The petitioner is permitted to re-present the appeal papers within a period of one (1) week from today and if so re-presented, R2 shall receive the appeal without reference to limitation but ensuring compliance with all other statutory conditions, including pre-deposit, take the appeal on file, issue notice to the petitioner, hear it and dispose the same in accordance with law.

10. This Writ Petition and the connected Miscellaneous Petitions are dismissed, though with the liberty as aforesaid. No costs.

15.06.2023

Index : Yes / No
Speaking/non-speaking Order
Neutral citation:Yes/No
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To
1.Superintendent
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Erode-II – Salem Commissionerate
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