IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

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

W.P.Nos.18411, 18415, 18421, 18423, 18425, 18426, 18429, 18436, 18438, 18440, 18443, 18445, 18633, 18635, 18637, 18670, 20462, 20463 and 20465 of 2020
and
W.M.P.Nos.22814, 22822, 22827, 22830, 22833, 22837, 22841, 22859, 22863, 22864, 22870, 22873, 23112, 23113, 23114, 23178, 25237, 25238 and 25239 of 2020

W.P.No.18411 of 2020:-

M/s.Subha Stores,
Represented by its Proprietrix,
No.64 MTH Road, Padi,
Chennai – 600 050. ... Petitioner

Vs

1.The Assistant Commissioner,
Korattur Circle, Zone X,
Chennai.

2.The State Tax Officer,
Survey Cell – II, Investigation – II,
Chennai – 600 006. ...Respondents

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 his proceedings in GST:33AAIPR1707R1ZA/2018-19, quash the order dated 23.01.2020 passed for the month of April, 2018 to March 2019.

For Petitioner : Mr.P.E.R.Mangala Suvigaran

For Respondent : Mr.V.Prashanth Kiran
Government Advocate

COMMON ORDER

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

2. In these writ petitions, the petitioner has challenged the impugned Assesement orders dated 23.01.2020 passed under Section 62 of the TNGST Act, 2017 for the month of April 2018 to March 2019 whereby based on available records tax has been confirmed. The petitioner's registration was cancelled on 08.01.2019. The petitioner had also filed application dated 17.02.2020 for revocation of cancellation of the registration of the petitioner vide order dated 23.07.2020. It is stated that the petitioner has also paid the tax due. Subsequently, cancellation of registration was revoked by an order dated 23.07.2020. The

Government of Tamil Nadu has issued G.O.Ms.No.38, Commercial Taxes and Registration (B1), dated 05.04.2023, which reads as under:

"**No.II(2)/CTR/351(a-3)/2023**.

In exercise of the powers conferred by Section 148 of the Tamil Nadu Goods and Services Tax Act, 2017 (Tamil Nadu Act 19 of 2017) (hereinafter referred to as the said Act), the Governor of Tamil Nadu, on the recommendations of the Council, hereby notifies that the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of Section 62 of the said Act, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely:-

(i) the registered persons shall furnish the said return on or before the 30th day of June 2023;

(ii) the return shall be accompanied by payment of interest due under sub-section (1) of Section 50 of the said Act and the late fee payable under Section 47 of the said Act,

irrespective of whether or not an appeal had been filed *against such assessment order under Section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.*

2. This notification shall be deemed to have come into force on 31st day of March, 2023."

3. The above Notification seeks to give benefit to persons like the petitioner. This Court has passed an order on 20.07.2013 in W.P.Nos.5096, 5097 and 5099 of 2020 in the case of ***M/s.Sri Senthil Andavar Agencies, Rep by its Proprietor, No.58, V.O.C.Street, Panruti – 607 106*** Vs. ***The State Tax Officer (ST), (INT), CIW-1, Vellore***. The Court has considered the above Government Notification which held as under:

> "7.Considering the above, the Court is inclined to set aside the impugned assessment orders which are deemed to have been withdrawn, subject to the condition that the petitioner shall complies with the conditions of the aforesaid Notification, which contemplates payment of interest due under Sub-Section (1) of Section 50 of the said Act and the late fee payable under Section 47 of the said Act. The petitioner shall pay the aforesaid amount within a period of two weeks from the date of receipt of copy of this order.

> 8.With the above directions, the impugned orders are set aside and the Writ Petitions are allowed. Consequently, connected Miscellaneous Petitions are also closed. No costs."

4. The impugned orders are passed under Section 62 of the TNGST Act, 2017 shall be deemed to have been withdrawn provided petitioner complies with the condition. The petitioner shall pay requisite late fee for filing the return, if any, and the interest on the late payment of GST. The respondents may intimate the amount to be paid by the petitioner and for the petitioner to comply with the same. This exercise shall be carried out by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

5. These writ petitions stand disposed of with the above observations. No costs. Consequently, connected writ miscellaneous petitions are closed.

17.08.2023

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

1.The Assistant Commissioner,
Korattur Circle, Zone X,
Chennai.

2.The State Tax Officer,
Survey Cell – II, Investigation – II,
Chennai – 600 006.

C.SARAVANAN,J.
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