IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

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

W.P.No.21484 of 2023
and
W.M.P.No.20854 of 2023

M/s.Jaipur Textiles,
Represented by its Proprietor,
Bhagirath Yadav,
No.74/142, Ground Floor, LB Road,
Thiruvanmiyur, Chennai – 600 041. ... Petitioner

Vs

1.The Appellate Authority/The Joint Commissioner of GST (Appeals -II),
O/o.The Commissioner of GST & Central Excise (Appeals-II),
Newry Towers, 2nd Floor, No.2054/I, II Avenue,
12th Main Road, Anna Nagar,
Chennai – 600 040.

2.The Deputy/Assist Commissioner of GST & Central Excise,
[Central Jurisdiction], Chennai-South-Division,
Perungudi Range/Division,
Range-I Jurisdictional Office,
Chennai – 600 096.

3.The Superintendent of GST & Central Excise,
Chennai East Zone, Zone VIII Circle,
Thiruvanmiyur, Chennai – 600 014. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent pertaining to the impugned order dated 02.01.2023 in Reference Number:ZA3301230031398 and the records of the 1st respondent pertaining to the impugned order dated 09.06.2023 passed in Order-in-Appeal No.125/2023 (GSTA-II)(JC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mrs.Hema Muralikrishnan
Standing Counsel

**ORDER**

Mrs.Hema Muralikrishnan, learned Standing Counsel takes notice on behalf of the respondents.

2.The petitioner is an assessee under the GST. The GST registration of the petitioner was cancelled on 02.01.2023.

3.Aggreived by the same, the petitioner has filed a Statutory Appeal before the Appellate Commissioner in terms of Section 107 of the GST Act, 2017. Since the appeal was filed only on 11.05.2023, beyond the condoable period of 30 days under the aforesaid provisions, the Appellate Commissioner has rightly rejected the appeal. Hence, the petitioner is before this Court.

4.The learned Standing Counsel appearing for the respondents submits that the issue is now squarely covered against the petitioner in terms of the Hon’ble Supreme Court in the case of **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440. He therefore submits that the present writ petition is liable to be dismissed in the light of the aforesaid decision.

5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

6.Already a detailed order was passed by this Court in W.P.No.25048 of 2021 batch etc., dated 31.01.2022 in the case of ***Suguna Cutpiece Centre*** Vs. ***The Appellate Joint Commissioner of GST (ST) (GST) and another.*** The issue was examined. It was concluded that no useful prupose will be served by keeping the assessee outside the purview of the GST regime without reviving their GST registration, as the assesee will continue to carry on business. By not revoking the cancellation of the GST registration, the Government will loose the revenue. It is informed that the order of this Court in the above said case has not been appealed and has been accepted by the State Government.

7.Considering the above, Court is inclined to allow this writ petition at the stage of admission. Consequently, the appeal in filing the appeal stands condoned. The Appellate Commissioner namely the first respondent is directed to pass appropriate orders on merits and in accordance with law, within a period of 30 days from the date of receipt of a copy of this order.

8.This writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petition is closed.

**20.07.2023**

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

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**C.SARAVANAN,J.**

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