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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

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

W.P.No.25446 of 2023
and
W.M.P.Nos.24834 and 24836 of 2023

Viswambara Travels
Represented by its Proprietor
A.Sunil Kumar
No.96, Annai Indhra Nagar,
Velachery, Chennai – 600 017. ... Petitioner

Vs

1.The Assistant Commissioner (ST),
Velacherry Assessment Circle,
Integrated Registration and Commercial Taxes Building,
Nandanam, Chennai – 600 035.

2.The Deputy Commissioner (ST),
GST Appeal – Chennai – II,
No.1, Greams Road,
Chennai – 600 006. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent passed in Reference Number ZA3301230143466 dated 04.01.2023 and quash the same, as the

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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 TNGST Act 2017.

For Petitioner : Mr.N.Murali

For Respondents : Mr.V.Prashanth Kiran
Government Advocate

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate takes notice on behalf of the respondents.

2. This writ petition is being disposed of at the time of admission, after hearing the learned counsel for the petitioner and the learned Government Advocate for the respondents after dispensing with the requirement of filing of counter.

3.The petitioner has challenged the impugned Assessment order dated 04.01.2023 cancelling the petitioner's GST registration. The petitioner had the option for filing the Appeal within a period of 90 days from the date of the aforesaid order under Section 107 of the GST Act or

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further period of 30 days with an application to condone the delay in filing the Appeal. The last date for filing such an application would expired on 02.05.2023. The petitioner has filed the appeal on 08.06.2023 before the Appellate Authority/second respondent herein beyond the condonable period of limitation. The Appeal that has been filed by the petitioner will be rejected as its beyond the condonable period under Section 107 of the respective GST Act. The petitioner also an option to pray for revocation of the cancellation of the registration under section 30 of the Act within a period of 30 days which was also not exercised by the petitioner.

4. The petitioner is now before this Court to quash the impugned order dated 04.01.2023. The impugned order cannot be challenged in view of the Hon’ble Supreme Court in **Assistant Commissioner (CT) LTU, Kakinada and others** Vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC Online SC 440.

5. Be that as it may, this Court has taken a view in **M/s.Suguna Cutpiece Center** Vs. **Appellate Deputy Commissioner**

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(ST) (GST) and another, 2022 (2) TMI 933, that no useful purpose will be served by keeping an assessee outside the bound of GST regime, as irrespective of the registration, the petitioner would continue to carry on business. By not allowing the petitioner to get back to the main stream, either by revoking the cancellation of registration or setting aside the order or by not allowing the petitioner to file an appeal although beyond the period of limitation under Sections 30 and 107 of the TNGST Act, 2017, no useful purpose will be served.

6. Considering the above, the second respondent is directed to number the Appeal filed by the petitioner and dispose the same on merits and in accordance with law, subject to petitioner complying with other procedural requirements under the provisions of the GST Rules and payment of arrears of tax, if any, together with interest. The Appeal shall be numbered subject to the petitioner's compliance with the requirement of the Rules within a period of thirty days from the date of compliance or disposed on merits in its turn. The Appellate Authority may impose penalty on the petitioner for any of the violation of the provisions of the GST enactments.

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7. This writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

30.08.2023

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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