IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.26967 of 2023
and
W.M.P.Nos.26403 and 26404 of 2023

M/s.Ambika Stores,
Represented by its Proprietor
Vasanth Manohar Singh,
No.743/322, Main Road,
Shevapet, Salem - 636 002. ... Petitioner

Vs.

The Deputy State Tax Officer-I,
Gugai Circle, Salem - 7. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in Order No.33AYRPS1115M1Z3/DSTO-1/2023 and quash the proceeding dated 31.08.2023 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mrs.K.Vasanthamala
Government Advocate

ORDER

Mrs.K.Vasanthamala, learned Government Advocate takes notice on behalf of the respondent.

2. This writ petition is taken up for final disposal today, after it was listed "For Admission" on the previous date i.e., on 15.09.2023.

3. The specific case of the petitioner is that the petitioner has stopped his business of provision store namely M/s.Ambika Stores and had applied for cancellation of registration on 22.01.2019 and the GST Registration of the petitioner was also cancelled on 06.02.2019.

4. It is therefore submitted that after the cancellation of GST registration, the petitioner was not required to verify the web portal any longer as the petitioner ceased to carry on the business.

5. On the other hand, the learned Government Advocate for the respondent would submit that based on the intelligence gathered, it was found that the petitioner was indeed carrying on business after the

registration was cancelled on 06.02.2019 and therefore, notices were issued to the petitioner in Form GST ASMT-14 electronically on 30.04.2022. It is further submitted that the hard copy of the same notices were also sent to the petitioner by registered post on 10.08.2021 and 30.12.2021 and they were returned with an endorsement "left".

6. The learned Government Advocate for the respondent has produced the originals of the postal cover bearing postal seal showing return of the notices sent to the petitioner on 10.08.2021 and on 30.12.2021. The address in the postal cover dated 10.08.2021 is the address given by the petitioner in the affidavit.

7. Thus, it is evident that the petitioner has deliberately attempted to evade the notice.

8. The arguments that no notice was served on the petitioner and therefore, the respondent should have follow the procedure under Section 169(1)(f) of the Central Goods and Services Tax (CGST) Act, 2017 cannot be countenanced as the notices have been sent on 30.04.2022 in ASMT-14.

9. The notice in Form GST DRC-01 has also been sent to the petitioner on 30.04.2021. This is after the petitioner evaded service of notice in ASMT-14 on 10.08.2021 and 30.12.2021.

10. The petitioner is not without any remedy. The petitioner can file a statutory appeal before the Appellate Authority under Section 107 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017. The petitioner was also given an option to go back to the respondent subject to the petitioner depositing 25% of the disputed tax to prove his *bona fide* or file a statutory appeal.

11. The learned counsel for the petitioner opts for the Latter.

12. Recording the above submission, this Writ Petition is disposed of by giving liberty to the petitioner to file a statutory appeal before the Appellate Authority in terms of Section 107 of the TNGST Act within a period of limitation prescribed under the aforesaid provision.

13. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

20.09.2023

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

arb

To

The Deputy State Tax Officer-I,
Gugai Circle, Salem - 7.

C.SARAVANAN, J.

arb

W.P.No.26967of 2023
and
W.M.P.Nos.26403 and 26404 of 2023

20.09.2023