IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.27488 of 2023
and
W.M.P.Nos.26929 & 26930 of 2023

Rakeshkumar ... Petitioner

Vs

The Assistant Commissioner (CT),
Thirumudivakkam Circle,
Commercial Taxes Department,
Integrated Building for Commercial Taxes and
Registration Department (South Tower) at Saidapet,
Government farm village,
Chennai – 600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondents in order for cancellation of Registration bearing reference number ZA330223265304Z Dated 27.02.2023 and quash the same, with consequential relief and direct the Respondents herein to grant restoration of cancelled registration under the GST enactments to the Petitioner.

For Petitioner	:	Mr.Prakash TC
For Respondent	:	Mrs.E.Ranganayaki Special Government Pleader

ORDER

Mrs.E.Ranganayaki, learned Special Government Pleader takes notice on behalf of the respondent.

2. The petitioner has challenged the impugned order dated 27.02.2023 passed under Rule 22 (3) read with 29 of the TNGST Act, 2017. By the impugned order, the respondent has cancelled the registration of the petitioner. The impugned order preceds a Show Cause Notice in GST REG-17 dated 09.02.2023. The notice states that the petitioner has failed to pay tax, interest and penalty to the Central and State Government for the period beyond three months from the date of which, such payment can be admitted. The petitioner has not filed the returns during the month of October, November and December 2022. After the notice was issued on 09.02.2023, the petitioner claims to have filed a return belatedly on 17.02.2023.

3. The case of the petitioner is that notice in GST REG-17 is unclear as to where the petitioner should appear for a personal hearing fixed on 17.02.2023. Hence, prays for interference under Article 226 of the Constitution of India.

4. The learned Special Government Pleader for the respondent submits that sufficient time was given to the petitioner to reply. However, the petitioner failed to reply and appear for personal hearing. That apart, the petitioner ought to have filed an application for revocation of cancellation under Section 30 of the TNGST Act, 2017, which also the petitioner failed to do so. That apart, it is submitted that the petitioner has other option to file an appeal before the Appellate Authority under Section 107 of the TNGST Act, 2017, which also the petitioner failed to exercise. Hence, the writ petition is liable to be dismissed.

5. The learned Special Government Pleader for the respondent has placed reliance on the decision 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.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the respondent.

7. The petitioner appears to be a person engaged in Automobile spare parts. The learned counsel for the petitioner submits that the petitioner has filed a return on 17.02.2023. However, there are no records to substantiate the same.

8. Be that as it may, Court is inclined to permit the petitioner to pursue the appellate remedy before the Appellate Commissioner under Section 107 of the TNGST Act, 2017, within a period of 30 days from the date of receipt of a copy of this order.

9.The petitioner shall however pre-deposit a sum of Rs.15,000/- along with the appeal over and above any amount that is due from the petitioner which shall be subject to final appropriation/adjustment, after order is passed by the Appellate Commissioner.

10. This writ petition stands disposed of. 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
jas/mac

To

The Assistant Commissioner,
Thirumudivakkam Circle,
Commercial Taxes Department,
Integrated Building for Commercial Taxes and
Registration Department (South Tower) at Saidapet,
Government farm village,
Chennai – 600 035.

C.SARAVANAN, J.

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