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.27556 of 2023 and
W.M.P.Nos.26999 & 27000 of 2023

M/s.Shriram Electro Chem Co.,
Represented by its Partner
Mrs.A.Thenmozhi,
RS No.4/1, Plot No.7, Kurumbapet,
Puducherry – 605 009. ... Petitioner

Vs

The Deputy Commercial Tax Officer,
Goods Division-III/IAC (Commune Panchayat),
Puducherry. ... 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 impugned proceedings of the Respondent passed in Reference Number ZA340523000509W dated 05.05.2023 and quash the same as the impugned proceedings of the respondent is in violation of principles of natural justice, cryptic, arbitrary and further direct the Respondent to restore and activate the registration of the petitioner granted under the Central Goods and Services Tax Act, 2017 and the Puduchery Goods and Services Tax Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.V.Vasantha Kumar
Additional Government Pleader
(Puducherry)

ORDER

Mr.V.Vasantha Kumar, learned Additional Government Pleader (Puduchery) takes notice on behalf of the respondent.

2.The petitioner has challenged the impugned order passed on 05.05.2023 in Form GST REG-19. The impugned order as preceded a notice in Form GST REG-17/31 dated 02.02.2023.

3.It appears that the petitioner had not filed returns for a period of six months. The petitioner has *post facto* filed the return in Form GSTR-3B for the month of April and May 2022. However, the petitioner has to still file the returns for the rest of the months starting from April 2022 to July, 2023. The petitioner has deposited a sum of Rs.5,00,000/- out of Rs. 11,45,481.50/- on 17.08.2023.

4.The learned Additional Government Pleader (Pondy) for the respondent would submit that the petitioner had an alternate remedy under Section 30 of Puducherry Goods and Services Tax Act, 2017. It is submitted that the petitioner also has an alternate remedy by way of an appeal before the Appellate Authority under Section 107 of the GST Act. Although, limitation for filing an appeal may have expired.

5.The learned Additional Government Pleader (Pondy) for the respondent placed reliance on the decision of this Court in ***DDA Tyres and Services* Vs. *The Deputy Commissioner of GST and another*** in W.P.Nos.3877 and 3880 of 2023 vide order dated 23.08.2023.

6.The learned Additional Government Pleader (Pondy) for the respondent further submits that the petitioner may be directed to workout his remedy before the Appellate Authority.

7.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader (Pondy) for the respondent.

8.Although this Court has taken different view in ***DDA Tyres and Services* Vs. *The Deputy Commissioner of GST and another*** in W.P.Nos.3877 and 3880 of 2023 vide order dated 23.08.2023 by relegating the party to file an appeal, Court is of the view that no useful purpose will be served by keeping the petitioner outside the purview of the GST regime, as the petitioner will continue to carry on business. This view has also been taken by this Court in **M/s.Suguna Cutpiece Center** Vs. **Appellate Deputy Commissioner (ST) (GST) and another** reported in 2022 (4) TMI 979.

9.Considering the above, Court is inclined to dispose this writ petition by quashing the impugned order subject to the petitioner depositing all the tax due for the period from April 2022 to July 2023 together with interest. It is made clear that the subject to payment of all the arrears of tax and interest thereon, the GST registration of the petitioner will stands revive. Liberty is given also to the respondent to initiate appropriate proceedings under Sections 73 and 74 of the Act to recover any amount of tax that still remains unpaid.

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 Deputy Commercial Tax Officer,
Goods Division-III/IAC (Commune Panchayat),
Puducherry.

<u>C.SARAVANAN, J.</u>

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