IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.28688 of 2023
and
W.M.P.No.28241 of 2023

M/s.Siddhan Intelligence Private Ltd.,
Represented by its Director R.Bhaskar,
Flat No.B 18/19, 1st Floor,
First Street, Dhasaripadma Nagar,
Maduravoyal, Thiruvallur - 600 095. ... Petitioner

Vs.

The Superintendent,
Vanagaram, Range III,
Chennai South, Tamil Nadu. ... 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 respondent in Reference Number ZA3312220245435 and quash the proceeding dated 07.12.2022 passed therein and further direct the respondent restore the petitioner's registration in GSTIN/UIN : 33ABBCS9084R1ZJ forthwith, effective from the date of cancellation.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.Rajnish Pathiyil
Senior Standing Counsel

ORDER

Mr.Rajnish Pathiyil, learned Senior Standing Counsel takes notice on behalf of the respondent.

2. This Writ Petition is being disposed at the time of admission after hearing the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

3. The petitioner has challenged the impugned order dated 07.12.2022 issued in Form GST REG-19 cancelling the GST registration obtained by the petitioner.

4. The impugned order precedes a Show Cause Notice dated 25.11.2022 to which, the petitioner has also not filed any reply.

5. The learned counsel for the petitioner would submit that the petitioner had no business and no returns were filed by the petitioner.

6. It is submitted that the petitioner's failed to file a regular return and therefore, unaware of the proceedings initiated on 25.11.2022, GST registration was cancelled. It is further submitted that no prejudice or harm will be caused to the respondent, if the cancellation of petitioner's GST registration is revoked.

7. The learned Senior Standing Counsel for the respondent on the other hand would submit that there was an Amnetsy Scheme in force with effect from 31.03.2023 up to 30.06.2023 vide Notification No.3/23-Central Tax (CT). As per the aforesaid Amnesty Scheme, all those registrants/dealers, whose registrations has been cancelled prior to 31.12.2022 were entitled to revive their cancellation of registrations subject to the conditions therein.

8. The petitioner has failed to take the benefit of the aforesaid Amnesty Scheme.

9. That apart, it is submitted that the petitioner has also failed to file an application under Section 30 of the Central Goods and Services Tax (CGST) Act, 2017 for revocation of the cancellation or file an appeal before the Appellate Authority in terms of Section 107 of the CGST Act, 2017 as made applicable to the petitioner. Hence, it is submitted that the writ petition is liable to be dismissed.

10. The learned Senior Standing Counsel for the respondent on instructions would submit that the Department is unaware as to whether there are any transactions made by the petitioner during the period when returns were not filed by the petitioner and therefore submits that on this count also this writ petition is liable to be dismissed.

11. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

12. The issue arising out the cancellation of registration was considered in detail by this Court in **Tvl.Suguna Cut Piece Centre** Vs. **Appellate Deputy Commissioner** (2022) 99 GSTR 386, wherein, this Court

had concluded that no useful purpose will be served by keeping the dealers/assessees outside the bounds of GST Act as they will continue to carry on the business.

13. The denial of an opportunity either file an appeal or to revoke the cancellation of registration was held to be a defeating move as the dealer/assessee will still continue to do business and if they are not brought into the mere scheme, the revenue will be the looser.

14. Considering the above, this Court is inclined to set aside the impugned order by directing the respondent to revive the GST registration of the petitioner with liberty to the respondent to initiate appropriate proceedings against the petitioner for imposing penalty and for recovering any tax due, to which, the petitioner may have failed to pay during the period, no returns were filed. There shall however be moratorium for a period of six months on the petitioner from discharging any part of tax liability from its Input Tax Credit (ITC) and from its Electronic Credit Ledger. The petitioner shall discharge its tax liability only out of the amounts it may credit in its Electronic Credit Ledger. In other words, the Electronic Credit Ledger shall

be frozen for a period of six months from the date of revival of its registration.

15. With the above liberty, this Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

29.09.2023

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

arb

To

The Superintendent,
Vanagaram, Range III,
Chennai South, Tamil Nadu.

C.SARAVANAN, J.

arb

W.P.No.28688 of 2023
and
W.M.P.No.28241 of 2023

29.09.2023