BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.23853 of 2023

M/s.THAI ENTERPRISES,
Represented by its Proprietrix
Francis Sheela Jeba Rani,
GSTIN:33BKDPS5526D1ZC,
4/363, G N G Nagar,
Vedapatti Road, Nallampatti Post,
Dindigul-624 003. ... Petitioner

Vs.

The Superintendent of CGST &
C.Excise,
Dindigul-I Range, Dindigul (Rural),
NGO Colony, Dindigul. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in Reference No.ZA330123150013G dated 27.01.2023 and to quash the same as illegal, arbitrary, and direct the respondent to revoke the cancellation of petitioner GSTN registration No. 33BKDPS5526D1ZC, within such time as may be directed by this Court.

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.R.Nanda Kumar,
Senior Standing Counsel,
Assisted by,
M/s.S.Ragaventhree,
Junior Standing Counsel

ORDER

This Writ Petition is filed for Certiorarified Mandamus, to quash the cancellation order dated 27.01.2023 passed in Reference No.ZA330123150013G by the respondent and to direct the respondent to revoke the cancellation of GSTN Registration No. 33BKDPS5526D1ZC within such time as may be directed by this Court.

2. The petitioner is a Company in the business of plant and machineries voluntarily registered under GST with Registration No.No. 33BKDPS5526D1ZC. The petitioner has filed returns through an accountant, but due to ill health he could not follow the filing of returns for the past six months. The contention of the petitioner is that the said accountant was instructed to file NIL returns but he failed to file the returns for the past six months. The other end tax payers had informed the petitioner that his registration is cancelled, then only it came to the knowledge that the respondent

issued show cause notice dated 10.08.2022 in the web portal and had cancelled the GST registration stating that the petitioner had not filed GST returns for the past six months. The further contention of the petitioner is that the period from 15.03.2020 to 28.02.2022 is excluded for the purpose of calculating limitation in the Suo Motu petition by Hon'ble Supreme Court. In the batch of writ petitions filed in W.P.Nos.25048, 25877, 12738 of 2021 before the High Court of Madras in the case of *Tvl.Suguna Cut piece Vs Appellate Deputy Commissioner (ST) (GST)* has condoned the delay in revoking the cancelled GSTN registration. Recently the Government of India has issued Notification No.03/2023-Central Tax dated 31.03.2023 and has extended the time up to 30.06.2023, but the extension is granted to taxpayers granting time on or before 31.12.2022. But the petitioner's cancellation is on 27.01.2023, hence the benefits of the said notification could not be availed by the petitioner. The petitioner has already filed GST monthly returns upto January 2023 and had paid necessary late fee and for the remaining period from February 2023 the petitioner could not upload the returns since the registration is cancelled. If the cancellation is set aside and the GST registration is revoked, then the petitioner is willing to pay the GST along with late fee.

3. The further contention of the petitioner is that the show cause notice, dated 10.08.2022, was issued to the petitioner in web portal, but the petitioner is

not proficient in computer access. After issuing the show cause notice, the respondent has cancelled the registration. Thereafter the respondent has cancelled the GST registration with effect from 31.12.2022. The contention of the petitioner is that the impugned order is bereft of any details. In the meanwhile, the respondent has issued amnesty scheme but the petitioner could not avail the benefit because of the cancellation of the registration of GST.

4. After hearing the rival submission this Court has given its anxious consideration. On perusal of the impugned order, dated 10.08.2022, it is seen that the respondent have not cited any reason. It is seen from the records that the Government has issued Notification No.03/2023-Central Tax dated 31.03.2023 and has extended the time up to 30.06.2023, but the extension is granted to taxpayers granting time on or before 31.12.2022. Unfortunately, the petitioner's cancellation was on 27.01.2023, had it been prior to 31.12.2022 then the petitioner would have come within the time prescribed under the said notification. But the consideration for extension was pending during that period, hence this Court is of the considered that the petitioner is entitled to the benefit. Moreover, the issue is covered under the judgment of Tvl. Suguna Cut Piece's case stated supra.

5. Therefore, this Court is allowing the writ petition and the respondent is directed to restore the petitioner's GST registration number. After restoration, the petitioner is directed to file the returns and pay tax and penalty as per law.

6. With the above said direction, the writ petition is allowed. There shall be no order as to costs.

29.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Sml

S.SRIMATHY, J.

Sml

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