



W.P.No.3423 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3423 of 2024
and W.M.P.Nos.3684 of 2024

M/s.Sparta Food Factory India Pvt. Ltd.,
(Represented by its Director Mr.E.Prasanna),
SF.No.199/2, 3, Periyasamy Kovil Road,
Pudhukombai Village, Muthugapatti Post,
Namakkal 637 405.

... Petitioner

-vs-

1.Superintendent of GST & Central Excise,
Namakkal Range,
Salem-II Division, No.782, A-2, RSR Complex,
Namakkal 637 002.

2.The Additional Commissioner of GST & Central Excise (Appeals)
Salem Circuit Office,
No.1, Foulkes Compound, Anaimedu,
Salem - 636 001.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, quashing the impugned order in Appeal No.SLM-CGST-ADC-APP-38/2023 dated 29.09.2023 passed by the second respondent and direct the first respondent to revoke the cancellation of the registration of the petitioner so that the petitioner can carry on their business.

For Petitioner : Mr.G.Natarajan

For Respondents : Mrs.R.Hemalatha, Sr. SC

ORDER

An appellate order dated 29.09.2023 rejecting the petitioner's appeal against the cancellation of its GST registration is under challenge. The petitioner was a registered person under applicable GST laws and its registration was cancelled by the first respondent under order dated 21.12.2023 with effect from 08.10.2022. After such cancellation, the petitioner filed its GST returns on various dates and



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the last of such returns was filed on 31.08.2023. The petitioner states that all tax dues, including interest and late fee dues were discharged.

2. Learned counsel for the petitioner submits that the time limit prescribed by Section 30(1) of the Central Goods and Services Tax Act, 2017 (the CGST Act), as it stood then, should be calculated from the date of filing of relevant returns in view of the stipulation in Rule 23(1) of the Central Goods and Services Tax Rules, 2017 (the CGST Rules), as it stood then, that an application for revocation of cancellation cannot be filed until returns are filed. In the alternative, he submits that the benefit of the amendment to Section 30 and Rule 23 should be extended to the petitioner. The last contention is that the benefit of the amnesty scheme should be extended by taking into account the fact that the cancellation of registration took effect from 08.10.2022.

3. Mrs.R.Hemalatha, learned senior standing counsel, accepts



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notice on behalf of the respondents. She submits that no benefit should accrue to the petitioner as a result of belated filing of returns.

In this regard, she relies upon Section 39 of the CGST Act.

4. By the impugned order, the petitioner's appeal was dismissed entirely on the ground of limitation. The appellate authority noticed that the appeal was filed on 30.08.2023, which was 132 days after the period for which delay could be condoned. The said finding is factually correct. Nonetheless, the admitted position is that the petitioner filed all its returns and that the last of such returns was filed on 31.08.2023. The petitioner has also categorically asserted that all tax dues, including interest and fees relating thereto, were duly discharged. By taking into account the overall facts and circumstances, this is an appropriate case to direct the appellate authority to consider the appeal on merits.

5. For reasons set out above, the appellate order impugned herein is quashed and the matter is remanded for re-consideration.



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The appellate authority is directed to consider and dispose of the appeal on merits within a period of *sixty days* from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner.

6. W.P.No.3423 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.No.3684 of 2024 is closed.

15.02.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

SENTHILKUMAR RAMAMOORTHY,J

rna



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To

WEB COPY

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