IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 20.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.3787 of 2024
and W.M.P.Nos.4090 & 4091 of 2024

Selvaraj Rajammal
W/o. S.Selvaraj,
Proprietrix of M/s.Sri Sridi Saibaba
Cotton Waste Company,
12, Chenniyappa Nagar,
Mannarai Post,
Tirupur-641 607. ... Petitioner

-vs-

1.The Assistant Commissioner,
Tiruppur (Rural) - I Assessment Circle,
Tiruppur.

2.The Commercial Tax Officer,
Tiruppur (Rural) - I Assessment Circle,
Tiruppur.

3.The State Tax Officer,
Investigation Survey Unit-I,
Erode Division, Erode. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the 1st respondent in Reference Number: ZA330823072292N in Form GST REG-19 dated 16.08.2023 and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and also in violation of the principles of natural justice and direct the 1st respondent to restore the registration certificate of the petitioner issued under the CGST Act, 2017 and TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.V.Prasanth Kiran, Govt. Adv. (T)

ORDER

The petitioner assails an order dated 16.08.2023 cancelling the GST registration of the petitioner. The petitioner was a registered person under applicable GST laws. According to the petitioner, she was unaware of the issuance of a show cause notice dated 15.06.2023 calling upon her to appear before the Commercial Tax Officer on

22.06.2023 in relation to the proposed cancellation of her GST registration. Since she was unaware of the show cause notice, it is stated that the petitioner did not reply thereto. Meanwhile, an intimation in Form GST DRC-01A was issued to the petitioner on 12.07.2023 in relation to the assessment period July 2017 to March 2018. The petitioner replied thereto on 27.07.2023. In these circumstances, it is stated that the petitioner was shocked to receive the impugned order of cancellation of her registration.

2. Learned counsel for the petitioner submitted that the show cause notice refers to a report from the State Tax Officer, Investigation Survey Unit-I, Erode Division, but that a copy of such report was not provided to the petitioner. He also submits that the show cause notice was issued by the Commercial Tax Officer, whereas the order of cancellation was issued by the Assistant Commissioner. Therefore, he submits that the impugned order is liable to be quashed.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondents. On instructions, he submits that the petitioner received and responded to the show cause notice by appearing before the Assistant Commissioner on 22.06.2023. By referring to Section 160(2) of the Tamil Nadu Goods and Services Tax Act, 2017, he submits that the petitioner is not entitled to question the exercise of jurisdiction by the Assistant Commissioner after participating in proceedings pursuant to the show cause notice. He also submits that the proceedings pursuant to the intimation dated 12.07.2023 are distinct and should not be conflated with the proceedings relating to the cancellation of registration.

4. From the show cause notice, it appears that the proposed cancellation was on the basis of a report from the State Tax Officer, Investigation Survey Unit-I, Erode Division to the effect that the petitioner was not carrying on business activities at the registered place of business. The impugned order records that the petitioner

did not appear in person or through an authorised representative upon receipt of the show cause notice. It also records that the petitioner did not reply to the show cause notice. Thus, the statement recorded in the impugned order of cancellation is not in consonance with the submission of learned Government Advocate on instructions. In the overall facts and circumstances, I am of the opinion that the petitioner should be provided an opportunity to contest the cancellation of registration. Solely for this reason, the impugned order of cancellation is interfered with by quashing the same.

5. Accordingly, the matter is remanded to the 1st respondent for re-consideration, and the petitioner is permitted to file a reply to the show cause notice within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. Upon receipt thereof, the 1st respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh

order within a maximum period of ***one month*** from the date of receipt of the petitioner's reply. It is, however, made clear that the petitioner will not enjoy any benefits of registration in the meantime.

6. W.P.No.3787 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4090 and 4091 of 2024 are closed.

20.02.2024

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

kj

To

1.The Assistant Commissioner,
Tiruppur (Rural) - I Assessment Circle,
Tiruppur.

2.The Commercial Tax Officer,
Tiruppur (Rural) - I Assessment Circle,
Tiruppur.

3.The State Tax Officer,
Investigation Survey Unit-I,
Erode Division, Erode.

SENTHILKUMAR RAMAMOORTHY,J

kj

W.P.No.3787 of 2024
and W.M.P.Nos.4090 & 4091 of 2024

20.02.2024