IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.04.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.8834 of 2024
&
WMP Nos.9835 & 9836 of 2024

M/s.Sarvagya Infrastructure Pvt. Ltd.
Represented by its Managing Director
Shri. S.Prabhakar
Old No.27, New No.38, Madley Road,
T.Nagar, Chennai – 600 017. ... Petitioner

vs

The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Integrated Commercial Taxes Building,
Nandanam, Chennai-600 035. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarifed Mandamus, calling for the records relating to the impugned order dated 28.11.2022 issued by the respondent in Reference no.ZA3311222464126 and quash the same, and further direct the Respondent to restore the GST registration of the Petitioner vide GSTIN:33AAUCS3797B1ZZ.

For Petitioner : Mr.Derrick Sam

Ms.Deepika Chopda

For Respondent : Mr.V.Prasanth Kiran
Government Advocate (Taxes)

ORDER

An order cancelling the GST registration of the petitioner is challenged.

2. The petitioner was engaged in undertaking sub-contracts in the construction and real estate sector. According to the petitioner, requisite returns were filed regularly until 31.03.2022. Since there was no business thereafter, it is stated that returns were not filed. In those circumstances, the petitioner received a show cause notice dated 23.08.2022 alleging non-filing of GSTR 3B returns. Upon receipt thereof, the petitioner filed the GSTR 3B returns for the months of April, May, June and July for assessment period 2022-2023. The impugned order was issued thereafter on 28.11.2022.

3. Learned counsel for the petitioner submits that Section 29 of applicable GST enactments enables cancellation of registration only

if returns are not filed for a continuous period of six months. By pointing out that returns had been filed up to March in assessment period 2021-2022, learned counsel submits that the continuous period of six months of non-filing had not lapsed when the show cause notice was issued. He further submits that returns were filed for the months of April, May, June and July, thereafter, thereby remedying the non-compliance. In these circumstances, learned counsel submits that the impugned order is not sustainable.

4. Mr.Prasanth Kiran, learned Additional Government Pleader, accepts notice for the respondent. He submits that the returns filed by the petitioner for April to July 2022-2023 are not on record. He further submits that the order of cancellation was issued in November 2022 and that the petitioner carried on business but filed nil returns.

5. The petitioner has placed on record the GSTR 3B return for March. The show cause notice was issued in August 2022. At that point of time, if the six month period had been calculated from April,

it would have ended in September 2022. Consequently, the respondent was not entitled to invoke Section 29 and call upon the petitioner to show cause as to why the registration should not be cancelled. More importantly, the petitioner filed the returns for the months of April, May, June and July upon receipt of the show cause notice. By doing so, the breach complained of was remedied. The impugned order of cancellation cannot be sustained in these circumstances.

6. Therefore, W.P.No.8834 of 2024 is allowed and the order of cancellation is quashed. As a consequence, the GST registration of the petitioner shall stand restored. Consequently, connected miscellaneous petitions are closed. No costs.

02.04.2024

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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To

The Assistant Commissioner (ST),
Nandanam Assessment Circle,
Integrated Commercial Taxes Building,
Nandanam, Chennai-600 035.

SENTHILKUMAR RAMAMOORTHY J.

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