# IN THE HIGH COURT OF JUDICATURE AT MADRAS

**Dated : 29.11.2024**

**Coram:**

**THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.P.No.22786 of 2022**
**and W.M.P.No.21825 of 2022**

M/s.Shevar Metalo Pvt. Ltd.,
Rep. by its Director: D.Saravanan,
Plot No.O/41, Valluvar Street, Thiru Nagar,
Jafferkhanpet,
Chennai – 600 083.

...Petitioner

Versus

1.The Assistant Commissioner (Circle),
Kotturpuram Assessment Circle,
Zone – VII,
Chennai East, Tamil Nadu.

2.The Deputy Commissioner (ST) (FAC)
GST – Appeal,
C.T.Annexe Building, 3rd Floor,
Greams Road,
Chennai – 600 006.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records relating to the order in Appeal No.AP/GST/987/2021 dated 25.03.2022 (served on 10.06.2022) passed by the 2nd respondent modifying the order of

Cancellation of Registration made in Ref.No.ZA331121034203H in Form GST REG-19 dated 12.11.2021 passed by the 1st respondent and quash the same.

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| For Petitioner | : | Mr.M.A.Mudimannan |
| For Respondents | : | Ms.Amirta Poonkodi Dinakaran, Government Advocate |

**ORDER**

In the present writ petition, the petitioner has challenged the impugned order dated 25.03.2022 passed in Appeal No.AP/GST/987/2021 by the 2nd respondent.

2. By the impugned order, the 2nd respondent has dismissed the Appeal filed by the petitioner against the order dated 12.11.2021 passed by the 1st respondent, after a detailed consideration of facts of the case.

3. The petitioner was issued with a Show Cause Notice dated 29.10.2021 by the 1st respondent, wherein, it has been stated that consequent to the verification of the place of business by the Enforcement Officials, it was found that the petitioner has wholly contravened the provisions of the

CGST/TNGST Act, particularly, Section 132(1)(b) of the CGST/TNGST Act and therefore, the petitioner's registration was liable to be cancelled with retrospective effect from 07.02.2019. In response to the said Show Cause Notice, the petitioner filed its Reply on 10.11.2021. However, the 1st respondent had passed an order dated 12.11.2021, cancelling the petitioner's GST registration with the following observation:

> *"1. On verification of the place of business by the intelligence officials, it was found that the office premises size is approximately 15 feet X 10 feet and no facility for storage of goods and there is no trace of business activities dealing with the commodity of iron and scrap available in that place. The branch at 17B/38 Nanamadavillagam Village, Poonamallee Taluk, Thiruvallur was also inspected and found that no such company was running in the name style of Tvl.Shevar Metalo Private Limited."*

4. Aggrieved over the order of cancellation, the petitioner filed an Application for Revocation of Cancellation of Registration in Form GST REG-21 on 20.11.2021. That apart, against the very same order of cancellation, the petitioner also filed a Statutory Appeal before the 2nd respondent which has culminated in the impugned order dated 12.11.2021.

5. The petitioner company is entitled to vent out its grievances against the impugned order before the GST Tribunal in terms of Section 112 of the Tamil Nadu Goods and Services Tax Act, 2017 (for brevity, "TNGST Act"). However, as on date, the GST Tribunal is yet to be constituted. Since the petitioner has no other alternate remedy as on date, this writ petition is maintainable. Hence, this writ petition is taken up on merits and disposed of.

6. It appears to be a violation of the principles of natural justice, in as much as, the petitioner was not heard before its registration was cancelled by the 1st respondent vide order dated 12.11.2021. However, the fact remains that the petitioner's place of business was visited by the Enforcement Department and it was found that the petitioner had a small space for carrying on the business.

7. The order of the 2nd respondent has also captured the returns filed by the petitioner which indicates that the petitioner has facilitated bogus credit to be passed on to the customers, perhaps on consideration, without actual supply.

8. I do not find any reasons to interfere with the impugned order passed by the 2nd respondent. Even, if personal hearing was granted by the 1st respondent, the consequence would have been the same. The impugned order passed by the 2nd respondent is in detail and the same cannot be challenged.

9. In view of the above circumstances, this writ petition is dismissed. However, liberty is granted to the petitioner to apply for fresh registration, after duly complying the provisions of TNGST Act. No costs. Consequently, connected miscellaneous petition is closed.

**29.11.2024**

mrr
Index : Yes/No
Speaking Order (or) Non-Speaking Order

To
1.The Assistant Commissioner (Circle),
Kotturpuram Assessment Circle,
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**C.SARAVANAN, J.**

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