

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

**W.P. No.135 of 2020**

**and**

**WMP. Nos.167 & 168 of 2020**

M/s.Special Wire Products (P) Ltd,  
Rep. by its Managing Director,  
P.L. Rajendran, No.235 SIDCO Industrial Estate,  
Ambattur, Chennai-98.

.. Petitioner

Vs.

1 The Deputy/ Assistant Commissioner GST and  
Central Excise Ambattur Division,  
R 40 A1 TNHB Complex, Mugappair,  
Chennai-37.

2 Additional/ Joint Commissioner  
of CGST and CE (Appeals),  
Chennai North Commissionerate,  
No.26/1 Mahatma Gandhi Road,  
Nungambakkam Chennai-34.

.. Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying **Writ of Certiorari** to call for the records of the first respondent leading to the issue of the impugned order bearing Order Reference No.ZA990919000737U dated 6.9.2019 and quash the same since it is contrary to the Honourable High Courts Order dated 29.7.2019 in WP No.22260 of 2019 and also violative of Article 19(1)(g) of the Constitution of India and consequently direct the respondents to waive the interest penalty and late fee

for non payment of GST during the period of GSTIN Registration was cancelled due to fault of the respondents

For Petitioner : Mr.G.Natarajan

For Respondents : Mr.A.P.Srinivas,  
Senior Standing Counsel

**ORDER**

Heard Mr.G.Natarajan, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents.

2. The petitioner had appeared before the respondent on 29.08.2019, since in communication of even date issued by the Deputy Commissioner, he refers to the submissions put forth by the petitioner to the Officer 'during the personal hearing'. That being said, the order of rejection dated 06.09.2019 states on the ground that the petitioner did not appear in response to notice dated 06.09.2019 (the date is erroneous) is clearly incorrect.

3. Thus, the impugned order dated 06.09.2019, being in violation of principles of natural justice, is quashed.

4. The Central Board of Indirect Taxes, Customs in order No.1 of 2020 Central Board of Indirect Taxes and Customs in S.O. 2064 (E). dated 25.06.2020 has stated as follows:

Government of India  
Ministry of Finance (Department of Revenue)  
Central Board of Indirect Taxes and Customs  
Order No. 01/2020-  
Central Tax New Delhi,

25th June, 2020

S.O. ....(E). —WHEREAS, sub-section (2) of section 29 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act) provides for cancellation of registration by proper officer in situations described in clauses (a) to (e) as under: -

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts: Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

AND WHEREAS, sub-section (1) of section 169 of the said Act provides for service of notice (opportunity of being heard); clauses (c) and (d) of said sub-section are as under: -

.....

- (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
- (d) by making it available on the common portal; or

.....;

AND WHEREAS, sub-section (1) of section 30 of the said Act provides for application for revocation of cancellation of the registration within thirty days from the date of service of the cancellation order;

AND WHEREAS, sub-section (1) of section 107 of the said Act provides for filing appeal by any person aggrieved by any decision or order passed by an adjudicating authority within three months from the date on which the said decision or order is communicated to such person and sub-section (4) of section 107 of the said Act empowers the Appellate Authority that it may, if he is satisfied

*that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month;*

*AND WHEREAS, a large number of registrations have been cancelled under subsection (2) of section 29 of the said Act by the proper officer by serving notices as per clause (c) and clause (d) of sub-section (1) of section 169 of the said Act and the period of thirty days provided for application for revocation of cancellation order in sub-section (1) of section 30 of the said Act, the period for filing appeal under section (1) of section 107 of the said Act and also the period of condoning the delay provided in sub-section (4) of Section 107 of the said Act has elapsed; the registered persons whose registration have been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act are unable to get their cancellation of registration revoked despite having fulfilled all the requirements for revocation of cancellation of registration; the said Act being a new Act, these taxpayers could not apply for revocation of cancellation within the specified time period of thirty days from the date of service of the cancellation order, as a result whereof certain difficulties have arisen in giving effects to the provisions of sub-section (1) of section 30 of the said Act;*

*NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Central Goods and Services Tax Act, 2017, the Central Government, on the recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely: —*

*1. Short title.- This Order may be called the Central Goods and Services Tax (Removal of Difficulties) Order, 2020.-*

*2. For the removal of difficulties, it is hereby clarified that for the purpose of calculating the period of thirty days for filing application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act for those registered persons who were served notice under clause (b) or clause (c) of sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and where cancellation order was passed up to 12th June, 2020, the later of the following dates shall be considered:-*

*a) Date of service of the said cancellation order; or*

*b) 31 st day of August, 2020.*

5. The Commercial Taxes and Registration Department of the Government of Tamil Nadu has passed G.O.Ms.No.102 dated 26.06.2020 consequent upon the above CBIT Notification.

6. In the light of the aforesaid, this Writ Petition is allowed and the petitioner is at liberty to approach the Assessing Authority by the cut-off date provided in the Notification seeking restoration of registration. No costs. Connected Miscellaneous Petitions are closed.

**22.07.2020**

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Index: Yes/No

Speaking/non-speaking order

To

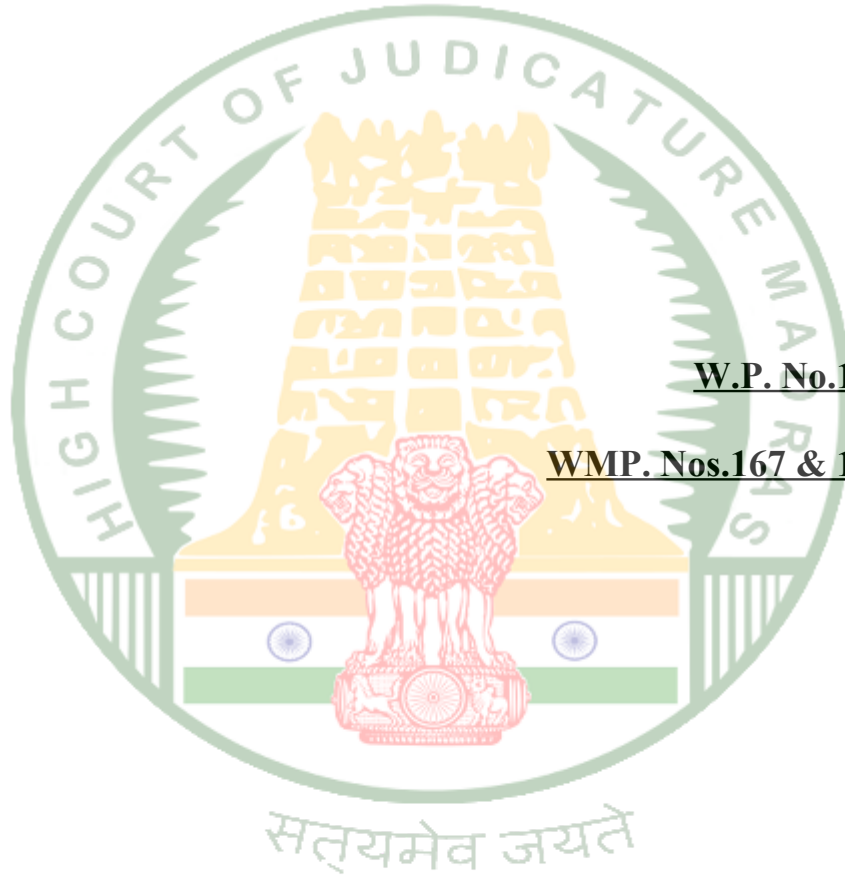
- 1 The Deputy/ Assistant Commissioner GST and Central Excise Ambattur Division, R 40 A1 TNHB Complex, Mugappair, Chennai-37.
- 2 Additional/ Joint Commissioner of CGST and CE (Appeals), Chennai North Commissionerate, No.26/1 Mahatma Gandhi Road, Nungambakkam Chennai-34.

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**Dr.ANITA SUMANTH, J.**

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