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WPA 16415 of 2021

M/s. CIGFIL Retail Pvt. Ltd.
Vs
Union of India & Ors.

Mr. S. Chakraborty,
Ms. Pooja Sah,
Mr. Sourish Ray,
Mr. Yash Sanklocha
... For the Petitioner.
Mr. Sujit Mitra
... For the UOI.
Mr. A. Roy, Ld. GP
Mr. T.M. Siddiqui,
Mr. N. Chatterjee
... For the State.

Heard learned Advocates appearing for the parties.

The petitioner has challenged the impugned order dated 8th February, 2021 cancelling its registration under GST under the provisions of Section 29(2) of the State GST Act on the ground that registration in question was obtained by documents void ab initio and that there was no existence of business at the declared place and the impugned order dated 16th April, 2021 rejecting the petitioner's application for revocation of cancellation and the order of the Appellate authority dated 25th August, 2021. Such impugned order was passed after issuing show-cause-notice dated 1st February, 2021 and upon consideration of the reply to the said show-cause-notice. The case of the petitioner is that the impugned order of cancellation of registration was purely on technical ground of minor

defect in the sub-let agreement, which was entered into by and between the petitioner and the lessor, where the lessor has made some incorrect description about its status and for such incorrect description by the lessor, the petitioner cannot be faulted. The petitioner further submits that such incorrect description or such defect in the rent agreement was rectified by a supplementary agreement and this was produced before the authority concerned at the time of hearing of the show-cause-notice, which was not considered by the petitioner. So far as allegation of non-existence of the petitioner at the registered place is concerned, it is the case of the petitioner that during Covid-19, to avoid the violation of Covid-19 protocol, it was carrying on business from some other places and during this period it had paid tax to the State respondents from time to time and the State respondents/GST Authority concerned have received taxes under the GST for carrying on business at the relevant period, which are all parts of record.

Considering these facts as well as in view of the facts and circumstances of the case that it is not a case of tax evasion or causing revenue loss to the Government rather petitioner's activity of carrying on the business which cannot be called illegal is creating revenue for the State as well as in helping the State to

solve the problem of unemployment a little bit and such type of drastic action in the facts and circumstances of the case by canceling the registration of the petitioner on such hyper technical ground will not help the State rather it will cause revenue loss to the State as well as aggravate unemployment problem in the State which will be a social problem in the society. The petitioner in support of his contention has relied upon a decision of this court in WPA 11147 of 2020(International Value Retail Private Limited Vs. Union of India & Ors.), reported in 2021(10) TMI 312-Calcutta High Court.

Considering the facts and circumstances of the case and records available and submission of the parties, I am inclined to set aside the impugned order dated 16th April, 2021 and order of the Appellate Authority dated 25th August, 2021 confirming the cancellation of registration of the petitioner for revocation of cancellation of its registration, by directing the State respondent concerned to consider afresh the case of the petitioner in the light of the judgment of this court in the case of International Value Retail Private Limited Vs. Union of India & Ors.(supra) as well as the observation made in this order and while re-considering the case of the petitioner for revocation of cancellation of its

registration, the respondent concerned will make a physical inspection of the premises in question upon notice to the petitioner and give opportunity to the petitioner to place all the documents to satisfy the respondent concerned about the actual physical possession of the petitioner at the premises in question and the respondent concerned may verify the existence of the petitioner at the premises in question as well as carrying on business activity of the petitioner from the premises in question from the local people and take a final decision by not taking a hyper technical view and pass a reasoned and speaking order after giving opportunity of hearing to the petitioner or its authorized representatives.

With these observation and direction this writ petition, being WPA 16415 of 2021 is disposed of.

(Md. Nizamuddin, J.)