IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR. JUSTICE T.R.RAVI

THURSDAY, THE 18TH DAY OF JUNE 2020 / 28TH JYAISHTA, 1942

WA.No.658 OF 2020

AGAINST THE JUDGMENT IN WP(C) 7518/2020(L) OF HIGH COURT OF KERALA

APPELLANT/S:

M/S MAGNAMIND VENTURES (P) LTD.
38/508, KINFRA INDUSTRIAL PARK, NELLAD, MAZHUVANNUR,
ERNAKULAM -686669,
REPRESENTED BY ITS MANAGER(PR), PRAVEEN K K.

BY ADVS.
DR.K.P.PRADEEP
SMT.T.THASMI

RESPONDENT/S:

1 THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY(TAXES), GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM, KERALA, 695001.

2 COMMERCIAL TAX OFFICER/STATE TAX OFFICER,
COMMERCIAL TAXES/KERALA GST DEPARTMENT, 1ST CIRCLE,
PERUMBAVOOR, ERNAKULAM-683542.

3 COMMISSIONER OF KERALA STATE GST
KERALA STATE GST DEPARTMENT, TAX TOWERS, KILLIPALAM,
KARAMANA P O, THIRUVANANTHAPURAM, KERALA-695002.

4 THE SUPERINTENDENT OF CENTRAL TAX AND CENTRAL EXCISE,
KOLENCHERY RANGE, OMBALAYIL TOWERS, HOSPITAL
JUNCTION, KOLENCHERY, ERNAKULAM, KERALA-682311.

5 CHIEF COMMISSIONER OF CENTRAL TAXES,
(CGST) AND CENTRAL EXCISE) CENTRAL REVENUE BUILDINGS,
I S PRESS ROAD, COCHIN, ERNAKULAM-682018.

6 GOODS AND SERVICE TAX COUNCIL,
GOVERNMENT OF INDIA, OFFICE OF THE GST COUNCIL
SECRETARIAT, 5TH FLOOR, TOWER II, JEEVAN BHARTI
BUILDING, JANAPATH ROAD, CONNAUGHT PLACE, NEW DELHI-

110001, REPRESENTED BY ITS ADDITIONAL SECRETARY,

7 GOODS AND SERVICE TAX NETWORK,
EAT WING, 4TH FLOOR, WORLD MARK -1, AEROCITY, NEW DELHI-110037, REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER.

R4-7 BY SREELAL N. WARRIER, SC, CENTRAL BOARD OF EXCISE & CUSTOMS
R6-7 BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA

SR.GP SRI.V.K.SHAMSUDHEEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 18.06.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.VINOD CHANDRAN
&
T.R.RAVI, JJ.
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W.A NO.658 OF 2020
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Dated this the 18th day of June, 2020

JUDGMENT

K.VINOD CHANDRAN,J

Read Order dated 26.05.2020:-

"The appellant is a private limited company engaged in carrying specialist service of dry cleaning, providing such services to hotels, airline companies and the like. The appellant had been delaying payment of Central Goods and Services tax as also the State Goods and Services Tax from year 2017 onwards. Payments were made with long delay, on which no action was taken. However, when there was consistent default and the dues mounted uncontrollably, the department took action through the 4th respondent.

2. The 4th respondent issued show cause notice which is produced as Ext.P8 to which the appellant replied by Ext.P9 agreeing to pay off the entire overdue amounts in 12 equal monthly installments of Rs.9 lakhs each. The request was made by Ext.P9 dated 25.02.2020. There has been no *deposit made, according to the learned Standing Counsel appearing for the Department. The Department hence cancelled the registration. The learned Single Judge refused to exercise discretion since the petitioner could pay the entire defaulted amounts and revive the registration.*

3. The learned Counsel for the appellant submits before us that the appellant had always been ready and willing to make installments, but, however, his registration was cancelled. There was no mode by which the payment could be made since the payments are made online. The learned Counsel also pleads; citing the extraordinary situation created by the pandemic and the resultant lock down, which resulted in the establishment remaining closed in the preceding months.

4. On 21.05.2020 when the matter came up for admission we directed the learned Counsel to get specific instructions as to how much amounts can be paid. We specifically pointed out that the installments as agreed to by the appellant had to commence by March 2020. By May,

> *there would have been at least Rs.30 lakhs paid. We direct the appellant to ensure payment of the said amounts before 15.06.2020. WE hence post the case to 09.06.2020 for further orders, on the appellant agreeing to pay the said amount."*

2. Even today when the matter was taken up, there was neither deposit made nor even an offer from the appellant as to a specific amount being deposited within a specified period. In such circumstances, we are of the opinion that no interference can be made to the judgment of the learned Single Judge.

3. However, it is brought to our notice that, the Goods and Services Tax Council has made some recommendations for extension of period for seeking revocation of cancellation of registration.

4. Learned Standing Counsel for the department informs us that, a formal notification has not been brought out. In such circumstances, if a notification is brought out and the

appellant is entitled under the same, the appellant could seek his remedy under that notification, despite the dismissal of the Writ Appeal.

The Writ Appeal is dismissed with the above observation.

Sd/-

K.VINOD CHANDRAN

JUDGE

Sd/-

T.R.RAVI

JUDGE

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18.06.2020