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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.22532 of 2023
and
W.M.P(MD)No.18764 of 2023

M/s.GMR Enterprises,
Represented by its Proprietor,
Mr.G.Michael.

... Petitioner

Vs

The Commercial Tax Officer,
Paramakudi,
Ramanathapuram District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent in his proceedings in Reference Number: ZA330523054106Y, dated 11.05.2023 and quash the same and further direct the respondent to revoke the cancellation of Registration under the GST Act bearing GSTIN/UIN: 33AOHPM2353K2ZW.



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For Petitioner : Mr.A.Satheesh Murugan
For Respondent : Mr.A.K.Manikkam,
Special Government Pleader

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the cancellation order in Reference Number:ZA330523054106Y, dated 11.05.2023 and also seeking further direction to the respondent to revoke the cancellation of Registration under the GST Act bearing GSTIN/UIN: 33AOHPM2353K2ZW. within such time as may be directed by this Court.

2. Heard Mr.A.Satheesh Murugan, the Learned counsel appearing for the petitioner and Mr.A.K.Manikkam, the Learned Special Government Pleader appearing for the respondent. With their consent, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner is doing business and voluntarily registered under GST with Registration No.GSTIN/UIN:33AOHPM2353K2ZW. The petitioner



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has filed returns, but due to financial crises they could not follow the filing of returns. The petitioner came to know that his registration was cancelled by the respondent from 11.05.2023 and therefore, the petitioner is not able to file the returns. Thereafter, the respondent has issued show cause notice, dated 26.04.2023. In the batch of writ petitions filed in ***W.P.Nos.25048, 25877, 12738 of 2021*** before the High Court of Madras in the case of ***Tvl.Suguna Cut piece Vs Appellate Deputy Commissioner (ST) (GST)*** has condoned the delay in revoking the cancelled GSTN registration. Recently the Government of India has issued Notification No.03/2023~Central Tax dated 31.03.2023 and has extended the time up to 30.06.2023, but the extension is granted to taxpayers granting time on or before 31.12.2022. The petitioner's cancellation is on 11.05.2023, hence the benefits of the said notification could not be availed by the petitioner. If the cancellation is set aside and the GST is revoked the petitioner is willing to pay the GST along with late fee.

4. The further contention of the petitioner is that the show cause notice, dated 26.04.2023, was issued and after issuing the show cause notice, the



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respondent has cancelled the registration. The contention of the petitioner is that the impugned order is bereft of any details. In the meanwhile, the respondent has issued amnesty scheme but the petitioner could not avail the benefit because of the cancellation of the registration of GST.

5. On perusal of the impugned order, dated 11.05.2023, it is seen that the respondent has cited the reason that the petitioner has not responded within stipulated time and the relevant portion is extracted hereunder:

“Whereas no reply to the show cause notice has been submitted, but you/your authorised representative attended the personal hearing and made a written or verbal submissions”.

6. After hearing the rival submissions, this Court has given its anxious consideration. It is seen from the records that the government has issued Notification No.03/2023~Central Tax dated 31.03.2023 and has extended the time up to 30.06.2023, but the extension is granted to taxpayers granting time on or before 31.12.2022. Unfortunately, the petitioner's cancellation was on 11.05.2023,



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had it been prior to 31.12.2022 then the petitioner would have come within the time prescribed under the said notification. But the consideration for extension was pending during that period, hence this Court is of the considered that the petitioner is entitled to the benefit. Moreover, the issue is covered under the judgment of *Tvl. Suguna Cut Piece's case* as stated supra.

7. Therefore, this Court is allowing the writ petition and the respondent is directed to restore the petitioner's GST registration number. After restoration the petitioner is directed to file the returns and pay tax and penalty as per law.

8. With the above said direction, the writ petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
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To

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Paramakudi,
Ramanathapuram District.



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S.SRIMATHY, J

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