IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.2694 of 2024
and
W.M.P.No.2971 of 2024

Raghavaprasad,
Managing Director,
Mayon Infra Project Private Limited,
No.3/842-B, Bharathi Nagar Extn,
Arasanatti Hosur,
Krishnagiri District,
Pin 635 126.

... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
Office of the Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai 600 005.

2.The Appellate Deputy Commissioner (ST)(GST),
Salem and Erode,
Commercial Taxes Building,
Pichards Road, Salem 7.

3.The Assistant Commissioner,
Hosur (South)-1.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent made in ROC.No. & year: 1365/2023 dated 03.10.2023 by confirming the order of the 3rd respondent in Ref.No.ZA3301233094723 dated 31.01.2023 and to quash the same and consequently direct the 3rd respondent to revoke the cancellation order and restore the GST Registration No.33AAJCM8067B1ZJ for the petitioner's concern.

For Petitioner : Mr.J.Pradeep

For Respondent : Ms.K.Vasanthamala,
Government Advocate

ORDER

This writ petition has been filed challenging the order dated 03.10.2023 passed by the 2nd respondent cancelling GST registration of the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner was unable to run the business during the COVID period, due

to which, they had not filed their returns for a period of 6 months. Under these circumstances, the GST Registration of the petitioner was cancelled by the 3rd respondent vide order dated 31.01.2023 and the same was confirmed vide impugned order dated 03.10.2023.

3. The learned counsel for the petitioner referred to and relied upon the order of this Court in Suguna Cutpiece v. The Appellate Deputy Commissioner (ST)(GST) and others (W.P.Nos.25048 of 2021 etc. batch decided on 31.01.2022), and contends that the petitioner is entitled to an order on similar lines.

4. The learned Government Advocate appearing for the respondent also submits that directions on the lines of Suguna Cutpiece (stated supra) may be issued.

5. In view of the above, the cancellation of Registration stands revoked subject to the fulfilment of the following conditions :

i. The petitioner is directed to file returns for the period prior to the cancellation of registration, if not filed, together with tax dues along with interest thereon and the fee fixed for belated filing of returns within a period of forty five (45) days from the date of receipt of a copy of this order.

ii. It is made clear that such payment of tax, interest, fine/fee etc. shall not be allowed to be made or adjusted from and out of any Input Tax Credit (ITC) which may be lying unutilized or unclaimed in the hands of the petitioner.

iii. If any ITC has remained unutilized, it shall not be utilised until it is scrutinized and approved by an appropriate or competent officer of the Department.

iv. Only such approved ITC shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

v. The petitioner shall also pay GST and file the returns for the period subsequent to the cancellation of the registration by declaring the correct value of supplies.

vi. If any ITC was earned, it shall be allowed to be utilised only after scrutinising and approving by the respondent or any other competent authority.

vii. On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.

viii. The respondent shall take suitable steps by instructing GST Network, New Delhi to make suitable changes in the architecture of the GST Web portal to allow the petitioner to file the returns and to pay the tax/penalty/fine.

ix. The above exercise shall be carried out by the respondent within a period of Forty Five (45) days from the date of receipt of a copy of this order.

x. If any of the aforesaid conditions is not complied with by the petitioner, the benefit granted under this order will automatically ceased to operate.

6. With the above directions, this writ petition is disposed of. No cost. Consequently, the connected miscellaneous petition is also closed.

22.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

KRISHNAN RAMASAMY.J.,

nsa

To

1.The Commissioner of Commercial Taxes,
Office of the Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai 600 005.

2.The Appellate Deputy Commissioner (ST)(GST),
Salem and Erode,
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