



W.P.No.3756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.3756 of 2024
and W.M.P.Nos.4067 & 4068 of 2024

Mr.Selvaraj Subramaniam
S/o.Mr.S.Selvaraj
Proprietor of M/s.Sri Kalki Cotton Traders
29, Chenniyappa Nagar,
Mannarai Post,
Tirupur - 641 607.

... Petitioner

-VS-

1.The Assistant Commissioner,
Tiruppur (Rural) - I Assessment Circle
Tiruppur.

2.The Commercial Tax Officer,
Tiruppur (Rural) - I Assessment Circle
Tiruppur.

3.The State Tax Officer,
Investigation Survey Unit-I,
Erode Division, Erode.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in Reference Number: ZA330823072311V in Form GST REG-19 dated 16.08.2023 and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and in violation of the principles of natural justice and direct the first respondent to restore the registration certificate of the petitioner issued under the CGST Act, 2017 and TNGST Act, 2017.

For Petitioner : Mr.P.Rajkumar

For Respondents : Mr.V.Prasanth Kiran, GA (T)

ORDER

The petitioner assails an order dated 16.08.2023 cancelling the GST registration of the petitioner. The petitioner was a registered



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person under applicable GST laws. According to the petitioner, he was unaware of the issuance of a show cause notice dated 15.06.2023 calling upon him to appear before the Commercial Tax Officer on 22.06.2023 in relation to the proposed cancellation of his GST registration. Since he was unaware of the show cause notice, it is stated that the petitioner did not reply thereto. Meanwhile, an intimation in Form GST DRC-01A was issued to the petitioner on 12.07.2023 in relation to the assessment period July 2017 to March 2018. The petitioner replied thereto on 27.07.2023. In these circumstances, it is stated that the petitioner was shocked to receive the impugned order of cancellation of his registration.

2. Learned counsel for the petitioner submitted that the show cause notice refers to a report from the State Tax Officer, Investigation Survey Unit-I, Erode Division, but that a copy of such report was not provided to the petitioner. He also submits that the show cause notice was issued by the Commercial Tax Officer,



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whereas the order of cancellation was issued by the Assistant Commissioner. Therefore, he submits that the impugned order is liable to be quashed.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. On instructions, he submits that the petitioner received and responded to the show cause notice by appearing before the Assistant Commissioner on 22.06.2023. By referring to Section 160(2) of the Tamil Nadu Goods and Services Tax Act, 2017, he submits that the petitioner is not entitled to question the exercise of jurisdiction by the Assistant Commissioner after participating in proceedings pursuant to the show cause notice. He also submits that the proceedings pursuant to the intimation dated 12.07.2023 are distinct and should not be conflated with the proceedings relating to the cancellation of registration.



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WEB COPY 4. From the show cause notice, it appears that the proposed cancellation was on the basis of a report from the State Tax Officer, Investigation Survey Unit-I, Erode Division to the effect that the petitioner was not carrying on business activities at the registered place of business. The impugned order records that the petitioner did not appear in person or through an authorised representative upon receipt of the show cause notice. It also records that the petitioner did not reply to the show cause notice. Thus, the statement recorded in the impugned order of cancellation is not in consonance with the submission of learned Government Advocate on instructions. The record reveals that the petitioner was not heard before the impugned order of cancellation was issued. In the overall facts and circumstances, I am of the opinion that the petitioner should be provided an opportunity to contest the cancellation of registration. Solely for this reason, the impugned order of cancellation is interfered with by quashing the same.



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WEB COPY 5. Accordingly, the matter is remanded to the first respondent for re-consideration, and the petitioner is permitted to file a reply to the show cause notice within a maximum period of *two weeks* from the date of receipt of a copy of this order. Upon receipt thereof, the first respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a maximum period of *one month* from the date of receipt of the petitioner's reply. It is, however, made clear that the petitioner will not enjoy any benefits of registration in the mean time.

6. W.P.No.3756 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4067 and 4068 of 2024 are closed.

19.02.2024

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Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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To

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SENTHILKUMAR RAMAMOORTHY,J

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