IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.8329 of 2024 &
W.M.P.No.9286 of 2024

Sri.Magimai Raj Udhaya,
No.16, Kasi Garden First Street,
Royapuram, Chennai 600 013. ... Petitioner

Vs.

The Assistant Commissioner,
Royapuram,
Chennai. ... Respondent

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 respondent in his proceeding in Ref.No. ZA331223044688J and quash the proceeding dated 12/12/2023 passed therein and further direct the respondent to restore the petitioner's registration GSTIN:33AFLPU9930M1ZN.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 12.12.2023, passed by the respondent.

2. The case of the petitioner is that the petitioner's GST registration was cancelled on 16.08.2023 for non-filing of returns for continuous period of six months. Therefore, the petitioner filed a revocation application with delay petition before the Additional Commissioner on 22.09.2023. The delay was condoned in filing the revocation of cancellation of registration and remitted the matter to the respondent for further proceedings. Thereafter, the respondent issued a show cause notice on 16.10.2023 through GST portal, in which, the date for personal hearing was mentioned as 17.10.2023, as the petitioner's consultant was unaware of the said notice issued through the GST portal, it failed to respond the said show cause notice. Without providing sufficient time to the petitioner to appear for personal hearing, the present impugned order came to be passed by the respondent on 12.12.2023, on the sole ground, as if no reply

was filed by the petitioner for the said show cause notice dated 16.10.2023. Hence, he requests this Court to revoke the order passed by the respondent for cancellation of GST Registration of the petitioner.

2.1. The main contention of the learned counsel for the petitioner is that, after the cancellation of GST registration dated 16.08.2023, the petitioner is not in a position to carry on the business activities, which causes much hardship to the petitioner. Further, he would submit that now the petitioner is intended to carry on the business activities and the petitioner is also ready and willing to pay the GST. Hence, he prayed for appropriate orders.

3. On the other hand, Mr.V.Prashanth Kiran, learned Government Advocate (Taxes) appearing for the respondent submitted that the petitioner did not file returns for a continuous period of six months, which led to the cancellation of the GST registration of the petitioner. He would further submit that the petitioner has not paid the outstanding taxes and that revocation of the

cancellation of GST registration will be considered only upon payment of all dues and also filing of all returns.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Admittedly, the GST registration of the petitioner was cancelled due to non-compliance in filing monthly returns. According to the petitioner, the petitioner was unaware of the notice and communications sent through the GST common Portal, which led to the passing of the present impugned order dated 12.12.2023. Therefore, this Court is of the view that the reason provided by the petitioner for non-compliance with the relevant provisions of the Act within the stipulated time appears to be genuine.

6. In view of the above, restoration of the GST registration is subject to fulfilling the following conditions :

(i) Subject to the payment of Rs.10,000/- to the credit of the Principal Government, Naturopathy Medical College and Hospital [Account

No.7883022723, IFSC Code:IDIB000M157], within a period of two weeks from the date of receipt of a copy of this order, the respondent shall take suitable steps by instructing GST Network, New Delhi, to make suitable changes in the architecture of the GST Web portal and restore the GST registration of the petitioner enabling the petitioner to file the returns and to pay the tax/penalty/fine.

(ii) The petitioner is directed to file returns for the period from the date when the petitioner stopped filing the returns and till date, if not filed, together with tax dues along with interest thereon and the fee fixed for belated filing of returns within a period of 4 weeks from the date of restoration of GST Registration of the petitioner.

(iii) 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 by the petitioner.

(iv) If any ITC has remained unutilized, it shall not be utilised until it is scrutinized and approved by an appropriate or competent Assessing Officer of the

Department.

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

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

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

14.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The Assistant Commissioner,
Royapuram,
Chennai.

KRISHNAN RAMASAMY.J.,

jd

W.P.No.8329 of 2024

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