IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.16865 of 2024 &

W.M.P.No.18555 of 2024

M/s.Speciality Pharmacy
Represented by its managing Partner, Shri Seviarasu
19A, Rajalakshmi Nagar 7th Cross Street,
Velachery, Chennai – 600 042. ... Petitioner

Vs.

The Assistant Commissioner,
Velachery Assessment Circle, Chennai South,
2nd Floor, Room No.234,
The Integrated Building for Commercial Taxes &
Registration Department,
Nandanam, Chennai – 600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to passing of the impugned Order bearing reference No.ZA3302230027519 dated 01.02.2023 passed by the respondent and quash the same. [Prayer amended as per the Order passed in WMP.No.28768 of 2024 in W.P.No.16865 of 2024 dated 09.09.2024]

For Petitioner : Mr.G.Natarajan

For Respondent : Mr.C.Harsharaj
Additional Government Pleader [T]

ORDER

This writ petition has been filed to quash the impugned Order passed by the respondent bearing reference No.ZA3302230027519 dated 01.02.2023.

2. The learned counsel for the petitioner contends that he was under the impression that his consultant has filed the GST returns regularly in time. Only on receipt of the letter from the respondent attaching the bank account of the petitioner for the balance tax dues payable by the petitioner, when he approached the respondent, he was informed that their GST registration has been cancelled as the tax due for the year 2017 – 18 has not been paid. On verification of the portal he came to know about the cancellation of the registration and rejecting the

revocation of cancellation of GST Registration even before passing an Order for cancellation of registration. Hence the learned counsel prays to set aside the order passed by the respondent.

3. In reply, the learned Additional Government Pleader appearing for the respondent confirms that the GST registration of the petitioner was cancelled by the order dated 07.04.2022 and the appeal filed by the petitioner was also rejected on the ground of limitation, as the petitioner did not file the return. Hence, the learned counsel prays to pass an appropriate order.

4. Heard the learned counsel for both parties and perused the materials on record.

5. In this case, the GST registration of the petitioner was cancelled by an order dated 05.01.2023 and the revocation of cancellation of registration has also been rejected on 01.02.2023. According to the petitioner as his consultant has failed to pay the tax for the year 2017-18

and he was under the bonafide impression that his consultant would have paid, tax amount has not been paid in time. The reason provided for non-compliance with the relevant provisions of the Act within the prescribed time, in the considered opinion of this Court, appears to be genuine. However, this Court believes that if the delay is condoned and the matter is remanded to the first respondent for fresh consideration, it will cause further delay in the disposal of the appeal and the revocation of the petitioner's GST registration, considering the fact that the petitioner had already paid entire tax, interest and late fees as well. Therefore, this Court is inclined to revoke the order passed by the respondent cancelling the GST registration of the petitioner. The cancellation of registration is hereby revoked, subject to the fulfilment of the following conditions:

> (i) 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, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner is directed to file returns for the period 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 in the hands of 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 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 ceased to operate.

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

09.09.2024

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

vrc

To

The Assistant Commissioner,
Velachery Assessment Circle, Chennai South,
2nd Floor, Room No.234,
The Integrated Building for Commercial Taxes &
Registration Department,
Nandanam, Chennai – 600 035.

KRISHNAN RAMASAMY, J.

vrc

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