IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.19654 of 2024 &
W.M.P.Nos.21512 & 21514 of 2024

Blue Star Cable Tv Network,
Rep. by its Proprietor Kaveri Chinnasamy,
No.4/179, Pothapuram, Errahalli,
Kaveripattinam,
Krishnagiri - 635 112. ... Petitioner

Vs.

The Assistant Commissioner (Circle),
Krishnagiri - 1. ... 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 record of the respondent in Reference No.ZA3310210266172, dated 07.10.2021 and quash the same and further direct the respondent to restore the certificate with registration No.33BANPC2605M1ZU.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (Taxes)

ORDER

The challenge in this writ petition is to the order dated 07.10.2021, passed by the respondent, cancelling the GST registration of the petitioner, and further direct the respondent to restore the certificate.

2. The learned counsel for the petitioner submitted that, due to the COVID-19 pandemic, the petitioner's business was severely affected, and the petitioner himself contracted COVID-19. Consequently, the petitioner was unable to file the monthly returns on the GST portal. He further submitted that after December 2021, M/s.Airtel Ltd. awarded a contract to the petitioner for laying cables. Subsequently, when M/s. Airtel Ltd. filed their returns, the Chartered Accountant of M/s. Airtel Ltd. noticed a mismatch in the GSTIN of the petitioner and advised the petitioner, in May 2024, to verify the details and take corrective action. Upon receiving this information, the petitioner accessed the GST portal in May 2024 and discovered that a show cause notice dated 28.04.2021 and the impugned order dated 07.10.2021 had been issued, stating that a reply was purportedly given by the petitioner on 16.07.2021. The learned counsel for the petitioner further submitted that all notices and communications were uploaded on the GST portal. However,

the petitioner, being a small business concern, was not aware of these notices. Consequently, since the petitioner was unaware of the show cause notice, the requirement to file objections on 16.07.2021 did not arise. Therefore, the learned counsel prays for the issuance of an appropriate order.

3. On the other hand, the learned Additional Government Pleader (Taxes) appearing for the respondent submitted that the petitioner did not file returns for a continuous period of six months, which led to the passing of the impugned order. He further submitted that the petitioner has not paid the outstanding taxes and that revocation of the cancellation of registration will be considered only upon payment of all dues and 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 returns, attributed to the unprecedented impact of the COVID-19 pandemic. Furthermore, the petitioner claims that they were unaware of the notices and communications sent through the GST Portal. 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 and conditional upon fulfilling 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.

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

20.08.2024

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

r n s

To

The Assistant Commissioner (Circle),
Krishnagiri - 1.

KRISHNAN RAMASAMY.J.,
r n s

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