IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20400 of 2024

The Hotel Moujahir,
Rep by its Authorised Person,
Mr.Mohamed Jafarullah Hamed Sulthan,
Regd. Office Address:
No.7, Kamarajar Street,
Karaikal, Karaikal,
Puducherry 609602.

... Petitioner

Vs.

The Authority,
Commercial Tax Officer and Division,
Karaikal, Puducherry.

... 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 on the file of the respondent in ZA341022006270I dated 28.10.2022 and quash the same, consequently direct the respondent to accept the pending tax payment from the petitioner vide GSTIN

34BKBPR4698K1ZJ in accordance with law.

For Petitioner	:	Mr.Edison Gnanaraj
For Respondent	:	Mr.J.Kumaran, Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 28.10.2022 passed by the respondent.

2. The learned counsel for the petitioner would submit that the petitioner was running the business of Hotel Accommodation and they had entrusted their Accountant for filing the returns, however, since the Accountant of the petitioner had met with an accident, no returns were filed by the petitioner for a period of 6 months continuously. Hence, the GST Registration of the petitioner was canceled by the respondent vide order dated 28.10.2022. Thereafter, new GST Registration was obtained by the petitioner on 06.03.2024.

3. Further, he would submit that now the petitioner is facing

difficulties in utilizing the Input Tax Credit, which is available in the previous GST Registration. Another difficulty of the petitioner is though they are providing Hotel Accommodation Services vide the New GST Registration Number, their regular customers are making payment using the old GST Registration Number while booking hotel. Hence, he requested this Court to pass appropriate orders by directing the respondent to restore the old GST Registration, which was canceled by the respondent on 28.10.2022 and upon such restoration, the respondent may be directed to close the new GST Registration, which was issued on 06.03.2022.

4. Per contra, the learned Additional Government Pleader appearing for the respondent had strongly opposed for the revocation of cancellation by citing the reason that the petitioner can file an appeal before the Appellate Authority. Hence, he requests this Court to dismiss the present petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and also

perused the materials available on record.

6. In the present case, the petitioner is running the business of Hotel Accommodation. Since the Accountant of the petitioner met with an accident, the returns were not filed by the petitioner for a period of 6 months, due to which, the GST Registration of the petitioner got canceled vide order dated 28.10.2022. Subsequently, the petitioner obtained a new Registration on 06.03.2024. After obtaining the new Registration, the petitioner is facing problems since the old customers are still using the old Registration Number for making payments.

7. Today, the learned Additional Government Pleader appearing for the respondent made strong objection for revocation of GST Registration of the petitioner. However, this Court is not in a position to accept the submissions made by the learned Additional Government Pleader and this Court is of the view that the said objection was raised by him in a mechanical matter since this case is neither pertaining to bill trading nor pertaining to any fake invoice. The only request made by the petitioner is with regard to the restoration of old GST Registration and

the reasons assigned by the petitioner, for such restoration, appear to be genuine. In such case, the respondent, who are collecting GST Revenue from the petitioner, are supposed to understand the difficulties faced by the petitioner and facilitate them to get over their problems.

8. For all the reasons stated above, this Court is inclined to direct the respondent to restore the old GST Registration of the petitioner. Accordingly, the cancellation of old GST Registration bearing GSTIN 34BKBPR4698K1ZJ is hereby revoked, subject to the fulfillment 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.
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> (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 old GST Registration bearing GSTIN 34BKBPR4698K1ZJ 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.

(viii) Immediately upon restoration of old GST Registration bearing GSTIN 34BKBPR4698K1ZJ, the new GST Registration, obtained by the petitioner on 06.03.2024, stands cancelled.

6. With the above directions, this writ petition is disposed of. No costs.

03.09.2024

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

To

The Authority,
Commercial Tax Officer and Division,
Karaikal, Puducherry.

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.20400 of 2024

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