IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.20198 of 2024 &
W.M.P.Nos.22106 & 22107 of 2024

M/s.Keshthana Infrastructure Private Limited,
Represented by its Director,
No.2/5, Plot No.7, 1st Floor, Sai Nagar,
Karpagam Avenue Extension,
R.A.Puram, Chennai - 600 028. ... Petitioner

Vs.

The Commercial Tax Officer,
Mandaveli Assessment Circle,
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 proceedings in Reference Number ZA3303230061458, quash the order dated 01.03.2023 passed therein and further direct the respondent to restore and activate the registration of the petitioner in GSTIN:33AAECK8031E2ZV.

For Petitioner : Mr.P.V.Sudakar

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

ORDER

The challenge in this writ petition is to the order dated 01.03.2023, passed by the respondent, cancelling the GST registration of the petitioner.

2. The learned counsel for the petitioner submitted that, due to the COVID-19 pandemic, the business was severely affected, and there were also certain health issues within the family. As a result, the petitioner was unable to file the monthly returns from March 2022 onwards. Consequently, the respondent issued a notice on 15.01.2023, proposing the cancellation of the GST registration for non-filing of returns for a continuous period of six months, and suspended the registration with effect from 15.01.2023, by passing an order of cancellation on 01.03.2023. The learned counsel for the petitioner further submits that all notices/communications were uploaded in GST portal. However, the petitioner, being a small business concern, was not aware of the notices uploaded on the GST portal. Hence, the learned counsel prays for 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 time limit for filing a statutory appeal against the cancellation order had also expired, and 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 Commercial Tax Officer,
Mandaveli Assessment Circle,
Chennai.

KRISHNAN RAMASAMY.J.,
r n s

W.P.No.20198 of 2024 &
W.M.P.Nos.22106 & 22107 of 2024

20.08.2024