IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.21627 of 2024
WMP.Nos.23604 of 2024

JCR Manpower Solutions, by its Proprietor
Rajaram Sharmila, Melakottaiyur-VILL
Kancheepuram 600127 Petitioner

Vs

The Assistant Commissioner, Thirukazhukundram Assessment Circle
Guduvancheri Range, Tambaram Division, Chengalput Zone
Chennai Outer Commissionerate Respondent

Prayer:- This Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order dated 15.12.2023 in Ref.No.ZA3312230621906 passed by the Respondent and to quash the same and consequently to direct the Respondent to revoke the cancellation of the GST registration of the Petitioner's Firm.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Ms.Revathi Manivannan, Standing Counsel

ORDER

1. This Writ Petition is filed for issuance of Writ of Certiorarified Mandamus to call for the records relating to the order, dated 15.12.2023 in Ref.No.ZA3312230621906 passed by the Respondent and to quash the same and consequently to direct the Respondent to revoke the cancellation of the GST registration of the Petitioner's Firm.

2. The case of the Petitioner is that the Petitioner Company is engaged in the

business of supply of manpower. The Respondent issued a show cause notice dated 01.02.2019 for cancellation of GST registration for not filing of GST returns for a continuous period of six months. Through the GST Online Portal, the impugned order was passed on 15.12.2023, cancelling the GST registration on the ground that the Petitioner did not appear for personal hearing. Since lot of invoices were yet to be received from the customers, the Petitioner was not in a position to file the returns in time. The application filed by the Petitioner for revocation of the cancellation of the GST registration was dismissed on 06.02.2024 and the appeal filed against the same on 26.06.2024 was refused to be entertained on merits. Hence, contending that since the impugned order was passed, without affording an opportunity of filing a reply to the show cause notice, including a personal hearing to the Petitioner to establish their case, thereby violating the principles of natural justice, it is not maintainable, this Writ Petition has been filed.

3. This Court heard the learned counsel on either side, considered their submissions and also perused the materials placed on record.
4. The learned counsel for the Petitioner would submit that since lot of invoices are yet to be received from the customers, the GST returns could not be filed in time and that no tax due is pending as on date and that the Petitioner undertakes to pay all the tax, if any, dues within a time frame and that if an opportunity is provided, the Petitioner would be able to establish his case.
5. The learned Standing Counsel for the Respondent submits that the Petitioner failed to file GST returns for a continuous period of six months and

hence, its GST registration was cancelled and that since the Petitioner now undertakes to pay all the GST dues along with the relevant documents, appropriate orders may be passed.

6. Admittedly, the Petitioner is carrying on the business as on date. Due to non filing of the returns, the GST registration was cancelled. The reasons for non filing of the GST Returns for the relevant period assigned by the Petitioner that the Proprietor of the Petitioner Firm was not well at that point of time and that lot of invoices were not received from its customers, appear to be genuine. Since the Petitioner is running the business as on date, certainly, for the interest of the State, they are bound to file the GST returns, by paying necessary tax and the Government is entitled to get tax from the tax payer for the welfare of the State. A person, who is running business, cannot be allowed to evade tax. In this case, the Petitioner assigned reasons for not filing the GST Returns along with tax and now, the Petitioner also undertakes to file the GST Returns for the relevant period, along with arrears of tax with penalty and interest for the relevant period, if any. According to the Petitioner, the Petitioner would be able to establish their case if an opportunity is provided.

7. In view of the above said circumstances and discussions, this Writ Petition is disposed of, with the following directions:-

   (a) The impugned order is set aside.

   (b) The Respondent is directed to revoke the cancellation of the GST registration of the Petitioner Firm within a period of two weeks

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from the date of receipt of a copy of this order.

(c) On such revocation, the Petitioner is directed to file all GST returns for the relevant period as required by the Respondent Authority and pay all arrears with interest and penalty towards GST dues, if any, within a period of six weeks thereafter.

(d) In the event of any failure on the part of the Petitioner in adhering to the above directions, it is open to the Respondent Authority to proceed further, in accordance with law.

No costs. Consequently, the connected MP is closed.

12.08.2024

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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To

The Assistant Commissioner, Thirukazhukundram Assessment Circle
Guduvancheri Range, Tambaram Division, Chengalput Zone
Chennai Outer Commissionerate

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