IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.21487 of 2024 &**
**W.M.P.Nos.23458 & 23459 of 2024**

M/s.Khyaati Engineering,
Represented by its Partner,
2nd Floor, No.218 Post Office Road,
Ambattur Industrial Estate,
Chennai - 600 058. ... Petitioner

Vs.

The Assistant Commissioner (Circle),
Ambattur Industrial Estate Circle
Chennai - 600 058. ... 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 No.ZA3310 20154126A, quash the order dated 16.10.2020 passed therein and further direct the respondent to restore the activate the registration of the petitioner in GSTIN:33AAKFK1909N1Z4.

For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.T.N.C.Kauzsik
Additional Government Pleader (Taxes)

**ORDER**

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice for the respondent.

2.By consent, the writ petition is taken up for final disposal at the admission stage itself.

3.Challenging the order dated 16.10.2020 of cancellation of GST registration and seeking a direction to the respondent to restore and activate the registration of the petitioner, the present writ petition came to be filed before this court.

4.The learned counsel for the petitioner submitted that from the inception of the GST Act, the petitioner had been diligently filing monthly returns in GSTR-3B and paying the appropriate taxes after availing the eligible input tax credit. However, due to COVID-19 pandemic and the resultant nationwide lockdown, the petitioner was unable to file returns or pay taxes for the period from April 2020 to October 2020. Even after the lockdown restrictions were released, the petitioner faced difficulties in resuming business operations because all their purchase orders had been cancelled. In such circumstances, the respondent issued a show cause notice dated 6.10.2020 proposing to cancel the GST registration for non-compliance of specified provisions in the GST Act or Rules; and thereafter, passed the order dated 16.10.2020 cancelling the GST registration of the petitioner.

5.According to the learned counsel for the petitioner, the petitioner was not aware of the issuance of the show cause notice and the cancellation of the registration as both were uploaded in the GST portal and not served or communicated to the petitioner by another mode of service. It is further submitted that by the time, the petitioner came to know about the cancellation of GST registration, the limitation for filing a statutory appeal against the cancellation order had expired. It is also submitted that after the second wave of covid-19 pandemic, the petitioner with a view to restart its business, filed the monthly returns for the period from April 2020 to October 2020. However, GST registration is must for obtaining any purchase orders and hence, the petitioner is before this court with the present writ petition for the aforesaid relief.

6.On the other hand, the learned Additional Government Pleader (Taxes) appearing for the respondent 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 the dues.

7.It is evident from the records that the delay in filing the returns by the petitioner was due to the unprecedented impact of COVID-19 pandemic, which reached its peak in June 2020. Admittedly, the GST registration of the petitioner was cancellation for non-compliance of returns for the period from April 2020 to October 2020. Therefore, this court is of the view that the reason assigned by the petitioner for non compliance with the relevant provisions of the Act, within the time, appears to be genuine. Hence, the order dated 16.10.2020 passed by the respondent is set aside, subject to the conditions that the petitioner shall file the returns upto date and pay all the taxes including penalties and interest, if any, within a period of eight weeks from the date of receipt of a copy of this order. The said order of cancellation of GST registration stand revoked subject to the above conditions.

8. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

**12.08.2024**

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

**KRISHNAN RAMASAMY.J.,**
r n s

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