IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.22599 of 2024 &
W.M.P.Nos.24624 & 24625 of 2024

Rajeswari Pugalendhi,
Proprietrix of Tvl. The Grand Sweets and Snacks,
No.24, 2nd Main Road, Gandhi Nagar,
Adyar, Chennai - 600 020. ... Petitioner

Vs.

The Assistant Commissioner (ST),
Kottupuram Assessment Circle,
Room No.213, 2nd Floor, Integrated CT & R Building,
571, Anna Salai, Nandanam,
Chennai - 600 035. ... 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 leading to the impugned order of cancellation of registration bearing reference No.ZA3311231108593Z, dated 24.11.2023 issued by the respondent herein and quash the same, and further direct the respondent to restore the GST Registration of the petitioner vide GSTIN:33AALPR8961Q1ZN.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

ORDER

Mr.V.Prashanth Kiran, learned Government Advocate (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 24.11.2022 of cancellation of GST registration and seeking a direction to the respondent to restore 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 and paying the appropriate taxes. However, due to COVID-19 pandemic and the resultant nationwide lockdown, the petitioner had suffered a huge loss and was unable to file returns and pay taxes and for the month of June 2022, the petitioner had filed the returns in December 2022. In such circumstances, the respondent issued a show cause notice dated 18.10.2023 proposing to cancel the GST registration for non-compliance of specified

provisions in the GST Act or Rules; and thereafter, passed the order dated 24.11.2023 cancelling the GST registration of the petitioner. Consequently, the respondent passed the order dated 28.12.2023 for the year 2017-18 in which the CGST of Rs.25,63,748/- and SGST of Rs.25,63,748/- totaling to Rs.51,27,496/- along with interest and penalty was confirmed. Subsequently, the bank account of the petitioner was also attached by letter dated 15.03.2024 issued by the respondent. Only thereafter, the petitioner came to aware of the impugned order passed by the respondent. However, by then, the period to file an appeal under section 107 of the Act, had elapsed. It is also submitted that the petitioner paid Rs.34,50,000/- on 25.03.2024 towards discharging their tax liability in part; and vide ref no.DC3304240048011 a sum of Rs.25,63,748/- was adjusted by the respondent on 12.04.2024 towards SGST portion of the demand for the year 2017-18 out of the amount of Rs.34,50,000/- paid by the petitioner on 25.03.2024 towards revocation of cancellation of GST registration and they also appropriated and adjusted the balance amount of Rs.8,86,252/- towards SGST portion of the demand for the year 2018-19. Therefore, the learned counsel sought to quash the order impugned herein.

5. On the above submissions, this court heard the learned Government Advocate (Taxes) appearing for the respondent.

6. It is evident from the records that due to delay of six months in filing the returns, the respondent has cancelled the registration of the petitioner. According to the learned counsel for the petitioner, in view of the COVID-19 pandemic, the petitioner was unable to file its returns within the time stipulated; and that immediately after coming to know about the passing of the order, the petitioner has paid a sum of Rs.34,50,000/- towards the demand raised by the respondent. 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 *bona fide*.

7. In view of the above, the cancellation of Registration dated 24.11.2023 stands revoked subject to the fulfilment of the following conditions :

> i. The petitioner is directed to file returns for the period prior to the cancellation of registration, if not filed, together with tax dues along with interest thereon and the fee fixed for belated filing of returns within a period of forty five (45) days from the date of receipt of a copy of this order.

ii. 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.

iii. 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.

iv. Only such approved ITC shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

v. The petitioner shall also pay GST and file the returns for the period subsequent to the cancellation of the registration by declaring the correct value of supplies.

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. On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith and the attachment made on the petitioner's bank account shall stand lifted.

viii. 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.

ix. The above exercise shall be carried out by the respondent within a period of forty five (45) days from the date of receipt of a copy of this order.

xi. If any of the aforesaid conditions is not complied with by the petitioner, the benefit granted under this order will automatically ceased to operate.

8. With the above directions, this writ petition is disposed of. No cost. Consequently, the connected miscellaneous petition is also closed.

13.08.2024

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

To

The Assistant Commissioner (ST),
Kottupuram Assessment Circle,
Room No.213, 2nd Floor, Integrated CT & R Building,
571, Anna Salai, Nandanam,
Chennai - 600 035.

KRISHNAN RAMASAMY.J.,

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