IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24870 of 2024
& W.M.P.Nos.27217 & 27219 of 2024

Shri.Karthik,
Proprietor of M/s.Ishikakarthik Traders,
Having Office at 120/2, Vaidyanathan Street,
Tondiarpet, Chennai 600 081.

... Petitioner

Vs.

The Assistant Commissioner,
Tondiarpet Assessment Circle,
Integrated Commercial Tax Office Complex,
Wall Tax Road, Chennai 600 003.

... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Form GST REG-19 dated 26.07.2024 having Ref.No. GSTIN : ZA3307241349867 issued by the respondent and quash the same.

For Petitioner : Mr.R.Sethu Prabakaran

For Respondent : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 26.07.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in the present case, a show cause notice dated 04.07.2024 was issued by the respondent alleging that the petitioner found non-existing in the registered place of business. Thereafter, the petitioner appeared for personal hearing on 10.07.2024, whereby they filed their reply along

with the purchase and sale invoices and documents to prove the conduct of business at their place of business. In the said reply, it has also been stated that the bank loan of a sum of Rs.75,00,000/- was sanctioned to the petitioner. However, without considering the said reply, the GST Registration of the petitioner was canceled vide order dated 26.07.2024 with effect from 25.04.2024.

4. Further, he would contend that due to the cancellation of GST Registration of the petitioner, now the petitioner is not in a position to utilize the loan amount, which was sanctioned to him. Hence, he requests this Court to pass appropriate orders to revoke the order of cancellation passed by the respondent.

5. On the other hand, the learned Government Advocate for the respondent confirms that since the petitioner found non-existing in the registered place of business, the GST Registration of the petitioner was cancelled by the respondent vide impugned order dated 26.07.2024. Further, she would submit that at the time of filing the reply, no

documents were filed by the petitioner with regard to the sanction of loan amount. Under these circumstances, the said impugned order came to be passed by the respondent. Hence, she requests this Court to pass appropriate orders.

6. In reply, the learned counsel for the petitioner would submit that the loan sanction letter was obtained by the petitioner only after the filing of reply, due to which, he was unable to produce a copy of the said sanction letter before the respondent.

7. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

8. In the present case, at the time of inspection conducted by the respondent, the petitioner was found non-existing in the registered place of business, due to which, the GST Registration of the petitioner was canceled by the respondent vide impugned order dated 26.07.2024. Prior

to the passing of impugned order, the petitioner had filed their reply along with the purchase and sale invoices and documents to prove the conduct of business at the aforesaid registered place of business.

9. That apart, from a perusal of loan sanction letter, it appears that the petitioner had availed loan for the development of business, which was carried on by them at the registered place of business. However, due to the cancellation of GST Registration, now the petitioner is not in a position to utilize the said loan amount.

10. Therefore, consider the above submissions made by the learned counsel for the petitioner, this Court is inclined to revoke the impugned order passed by the respondent. Accordingly, the cancellation of registration 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.

(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.

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

09.09.2024

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

To

The Assistant Commissioner,
Tondiarpet Assessment Circle,
Integrated Commercial Tax Office Complex,
Wall Tax Road, Chennai 600 003.

KRISHNAN RAMASAMY.J.,

nsa

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