IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.25522 of 2024 &
W.M.P.No.27889 of 2024

1. Tvl.BNA Automative India Private Limited,
Rep. by its Managing Director Mrs.K.Maheswari,
No.D.P.28, SIDCO Industrial Estate,
Thirumazhisai,
Chennai,
Tamil Nadu - 600 124. ... Petitioner

Vs.

Assistant Commissioner,
Thirumazhisai Assessment Circle,
Zone-XI, Thiruvallur Division,
Integrated CT Building,
No.4/109, Chennai Bangalore Highways,
Varadharajapuram, Nazarathpet,
Poonamallee- 600 012. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the Impugned Order for cancellation of Registration vide Form GST REG-19 bearing Ref.No.ZA330623038589A dated 08.06.2023, issued by the Respondent and quash the same.

For Petitioner : Mr.D.S.Vipula

For Respondents : Mr.J.N.C.Kaushik
Addl. Government Pleader (Taxes)

ORDER

The challenge in this writ petition is to the order dated 08.06.2023, passed by the respondent, cancelling the GST registration of the petitioner.

2. The learned counsel for the petitioner submitted that the Petitioner's husband who was the former Managing Director passed away on 27.02.2018, due to which, the petitioner's business was severely affected and subjected to financial crisis. Consequently, the Petitioner's business was closed on March 2023. The Respondents issued a Show Cause Notice on 26.05.2023 and as the Petitioner's business was closed they was not aware of the same and hence failed to submit reply and therefore impugned order of cancellation of Registration dated 08.06.2023 came to be passed. She further submitted that the Petitioner had filed the monthly returns upto March 2023 and also paid the tax liabilities along with interest on belated filing of returns.

He further submitted that now the petitioner is in a position to restarat the company and to conduct operations and hence prays for the issuance of 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 subject to verification of filing of returns and payment of tax liabilities appropriate orders may be passed.

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. Furthermore, the petitioner claims that they were unaware of the notices and communications for the reason that the Petitioner's business was closed. 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 said changes.

(ii) The petitioner is directed to file proof for filing returns and payment of tax liabilities etc., upto date.

(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.

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03.09.2024

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

Assistant Commissioner,
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KRISHNAN RAMASAMY.J.,

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