IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28865 of 2024 &

W.M.P.No.31480 of 2024

M/s.Trade Well, Rep. by its Proprietor
Mr.Shik Syed Thameen Ansari
Old No.68, New No.96,
Hotel Indian Palace Complex,1st Floor,
More Street, Parry's Corner, Chennai – 600 001. ... Petitioner

Vs.

The Assistant Commissioner,
Harbour Assessment Circle,
The Integrated Commercial Taxes Buildings,
Elephant Gate Road, Chennai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned Order vide reference No.ZA331121027200M, dated 10.11.2021 passed by the respondent against the petitioner's firm GSTN-33AKCPT9624R1ZD and quash the same as illegal and against the principles of natural justice.

For Petitioner : Mr.K.M.Malarmannan

For Respondent : Mr.V.Prashanth Kiran
Government Advocate [T]

ORDER

This writ petition has been filed to quash the impugned Order passed by the respondent bearing reference No.ZA331121027200M, dated 10.11.2021 against the petitioner's firm as illegal and against the principles of natural justice.

2. The learned counsel for the petitioner contends that they are trader in Electronic Goods and they were registered under the GST Act. While so, as the petitioner had failed to furnish their returns for a continuous period of six months, the respondent had issued a show cause notice to the petitioner on 02.09.2021 and their registration has been cancelled. The said show cause notice has not been viewed by the petitioner or his accountant as their business has been temporarily closed

at that time. It is further submitted that the petitioner had filed the returns upto the cancellation period. Hence the learned counsel prays to restore their registration, which was cancelled by the respondent.

3. In reply, the learned Government Advocate appearing for the respondent confirms that the GST registration of the petitioner was cancelled by an order dated 10.11.2021 as the petitioner has not filed their return for a continuous period of six months. Hence, the learned counsel prays to pass an appropriate order.

4. Heard the learned counsel for both parties and perused the materials on record. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

5. In this case, the GST registration of the petitioner was cancelled by an order dated 10.11.2021. According to the petitioner as his business has been temporarily closed during the COVID period, they failed to file their returns and they are not able to view the show cause issued to them. The reason provided for non-compliance with the

relevant provisions of the Act within the prescribed time, in the considered opinion of this Court, appears to be genuine. However, this Court believes that if the delay is condoned and the matter is remanded to the first respondent for fresh consideration, it will cause further delay in the disposal of the appeal and the revocation of the petitioner's GST registration. Considering the fact that the petitioner had already filed the returns upto the cancellation period, this Court is inclined to revoke the order passed by the respondent cancelling the GST registration of the petitioner. The cancellation of registration is hereby revoked, subject to the fulfilment 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.
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> (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.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2024

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

vrc

To

The Assistant Commissioner,
Harbour Assessment Circle,
The Integrated Commercial Taxes Buildings,
Elephant Gate Road, Chennai.

KRISHNAN RAMASAMY, J.

vrc

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