IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.30783 of 2024
and
W.M.P.Nos.33384 and 33385 of 2024

S MALA TEA CENTER
Rep. by its Proprietor Mrs.MALA,
No.2/66A, Rajiv Gandhi Street,
Panrutti, Kancheepuram,
Tamilnadu 631604. ...Petitioner

Vs.

1. The Superintendent,
   Walajabad Range Assessment Circle,
   No.40, Ranga Colony,
   Rajakilpakkam,
   Chennai 600073.

2. The Assistant Commissioner,
   Walajabad Range Assessment Circle-
   KANCHEEPURAM - RURAL,
   Plot No.428/7, Madam Street,
   Kanchipuram 631501. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned order in Reference No.ZA330324082656H DATED 18.03.2024 passed by the 1st Respondent nd consequential rejection order bearing

Reference No:ZA330424050867G DATED 10.04.2024 passed by the 2nd Respondent, and quash the same as arbitrary and illegal.

For Petitioner : Mr.S.Ramanan

For Respondents : Mr.S.M.Deenadayalan
Senior standing counsel

ORDER

The challenge in this writ petition is to the order dated 18.03.2024 passed by the 1st Respondent, cancelling the GST registration of the petitioner and the consequential rejection order passed by the 2nd Respondent dated 10.04.2024.

2. Mr.S.M.Deenadayalan, learned Senior Standing Counsel takes notice on behalf of the Respondents.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submitted that, initially the 1st Respondent issued Show Cause Notice dated 05.02.2024 to the Petitioner, for non-filing of returns for the continuous period of six months by the

Petitioner and proposed for cancellation of Registration of the Petitioner. He further submitted that though the documents were readily available, the Petitioner had not filed any reply, for the reason that the authorized person who was taking care of all statutory compliances was not well. Consequently, the 1st Respondent suspended the registration by passing an order of cancellation on 18.03.2024. Being aggrieved, the Petitioner filed an application for Revocation of cancellation on 19.03.2024, which was rejected by the 2nd Respondent on 10.04.2024. Challenging the order of cancellation passed by the 1st Respondent on 18.03.2024 and the rejection order passed by the 2nd Respondent on 10.04.2024, this Writ Petition came to be filed by the Petitioner.

5.Further, he would submit that impugned order of cancellation has been passed without affording an opportunity of hearing to the Petitioner and the 2nd Respondent also without hence the same is violation of principles of natural justice. He further submitted that the Petitioner has paid the tax and the outstanding dues to the Respondents and hence prays to set aside the same as well as the rejection order passed by the 2nd Respondent on 10.04.2024.

6. On the other hand, the learned Senior Standing Counsel (Taxes)

appearing for the respondents submitted that the petitioner did not file returns for a continuous period of six months, which led to the passing of the impugned order and since the Petitioner . He further submitted that the revocation of the cancellation of registration will be considered only upon payment of all dues and filing of all returns.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Admittedly, the GST registration of the petitioner was cancelled due to the fact that the Petitioner had not filed reply to the Show Cause Notice issued to him. Furthermore, the time limit for filing a statutory appeal against the cancellation order had also expired, and the petitioner states that though the documents were readily available, the Petitioner had not filed any reply for the Show Cause Notice issued by the 1st Respondent, for the reason that the authorized person who was taking care of all statutory compliances was not well. 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.

9. 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 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 scrutinizing 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.

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

19.10.2024

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

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Krishnan Ramasamy,J.,
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