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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.29715 of 2024
and
W.M.P.Nos.29715 and 32374 of 2024

M/s. Praveen Kumar
(GSTIN/UIN:33BVHPP5541A1ZW),
Flat No.A, Shop No.84,
Velacheri Main Road, Rajakeelpakkam,
Chennai, Tamil Nadu- 600 073. ...Petitioner

..Vs..

The Assistant Commissioner (Circle),
Selaiyur, Integrated Building for Commercial Taxes
and Registration Department (South Tower),
Saidapet, Government farm village, Chennai-35. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the Respondent in its impugned proceedings made in Ref.No.ZA3311200373349 dated 09.11.2020 and quash the same as illegal and consequently direct the Respondent to revoke the cancellation of the Petitioner's GSTIN:33BVHPP5541A1ZW within stipulated time.

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For Petitioner : Mr.Prajeeth Premkumar

For Respondent : Mr.G.Nanmaran,
Special Government Pleader (Tax)

ORDER

The challenge in this writ petition is to the order dated 09.11.2020 passed by the respondent, cancelling the GST registration of the petitioner.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes), takes notice on behalf of the respondent.

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 show cause notice dated 24.10.2020 was issued to the petitioner, for the reason that the Petitioner had not filed the returns for continuous period of six months and the same was uploaded in the GST portal. Since the third party service providers had halted their business during COVID-19 pandemic, without prior intimation to the Petitioner, they were not aware of the said proceedings, due to which they have not replied to the Show Cause Notice. Consequently, impugned order

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dated 09.11.2020 came to be passed cancelling the GST registration of the Petitioner citing the reason 'No response received to the SCN". Challenging the same, the Present Writ Petition came to be filed.

4. On the other hand, the learned Special Government Pleader (Taxes) appearing for the respondent submitted that since the Petitioner has not replied to the Show Cause Notice and not appeared before the Respondent for personal hearing, impugned order came to be passed.

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

7. Admittedly, the GST registration of the petitioner was cancelled due to non-compliance in filing returns and since the third party service providers had halted their business during COVID-19, pandemic without intimation to the petitioner, they were unaware of the proceedings of the Respondent sent through the GST Portal. 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.

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8. 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

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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.

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

04.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,
arr

To

The Assistant Commissioner (Circle),
Selaiyur, Integrated Building for Commercial Taxes
and Registration Department (South Tower),
Saidapet, Government farm village, Chennai-35.

W.P.No.29715 of 2024

04.09.2024