IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.10.2024

CORAM

**THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY**

**W.P.No.30632 of 2024**
**& W.M.P.Nos.33234 & 33235 of 2024**

M/s.Creatxia,
By its Partner Mr.Sahana,
No.17, Yadhaval Street,
Porur, Chennai 600 116.

... Petitioner

**Vs.**

1.The State of Tamil Nadu,
Rep by its Principal Secretary,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai 600 005.

2.The Commercial Tax Officer (ST),
Porur Assessment Circle,
Varadharajapuram, Nazarathpet,
Poonamallee, Chennai 600 123.

... Respondents

**Prayer:**

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records leading to the issuance of impugned order for cancellation of registration in Ref.No.ZA331123073955J dated 16.11.2023 by the 2nd respondent herein to permit the petitioner herein to file application for seeking revocation of the registration cancellation and consequently, directing the respondents herein to restore-reactivate the petitioner's registration GSTIN/UID: 33AANFC5085C1ZL so as to enable the petitioner herein to file their returns under TNGST Act.

For Petitioner : Mr.Manoharan S.Sundaram

For Respondent : Ms.Amirta Poonkodi Dinakaran, Government Advocate

**ORDER**

This writ petition has been filed challenging impugned order dated 16.11.2023 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 due to the demise of the petitioner's father-in-law, she was forced to stay in Sri

Lanka for performing the last rites, due to which, the petitioner had not filed the GST returns for a period of 6 months. Under these circumstances, the GST Registration of the petitioner was cancelled by the respondent vide order dated 16.11.2023.

4. Further, he would submit that the petitioner is willing to file his GST returns and pay the entire tax liabilities along with applicable interest and penalty, if any. Hence, he requests this Court to revoke the order passed by the respondent for cancellation of GST Registration of the petitioner.

5. In reply, the learned Government Advocate for the respondent confirms that the GST registration of the petitioner was cancelled by the respondent vide impugned order dated 16.11.2023 and requests this Court to pass an appropriate order.

6. Heard the learned counsel for the petitioner and the learned

Government Advocate for the respondent and also perused the materials available on record.

7. In this case, the GST registration of the petitioner was cancelled by the respondent vide the impugned order dated 16.11.2023. According to the petitioner, due to the demise of her father-in-law, she was unable to run his business and hence, she had failed to file his returns continuously for a period of 6 months. 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.

8. In view of the above, this Court is inclined to revoke the impugned order passed by the respondent canceling the GST registration of the petitioner. 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 therefrom.

(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.

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

**18.10.2024**

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

1.The Principal Secretary,
Commercial Taxes Department,
Ezhilagam, Chepauk,
Chennai 600 005.

2.The Commercial Tax Officer (ST),
Porur Assessment Circle,
Varadharajapuram, Nazarathpet,
Poonamallee, Chennai 600 123.

**KRISHNAN RAMASAMY.J.,**

nsa

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