IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.30520 of 2024
and
W.M.P.No.33130 of 2024

M/s.SRI VARI INDUSTRIAL WORKS
Rep. by its Partner K Ganesan,
No.358/2B, Thiruvallur Nagar,
M.R.Puram Village,
Vellore-632 405. ...Petitioner

Vs.

1. The Commissioner-Appellate Authority (ST),
Goods and Service Tax, Trichy & Vellore Division,
No.4, Fort Round Road, Vellore-1.

2. The Assistant Commissioner (ST),
Office of Commercial Tax Office,
Ranipet (Sipcot) Asst Circle. ... Respondents

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 of 2nd Respondent in Ref.No.ZA3303240095140 and quash the order dated 06.03.2024 passed by the 2nd respondent and consequentially condone the delay of 100 days in preferring an appeal to the 1st respondent.

For Petitioner : Mr.Malola Narasimhan

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 06.03.2024 passed by the respondent, cancelling the GST registration of the petitioner.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes), 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 the Petitioner Firm was primarily catering to the work order given by BHEL, Ranipet. He further submitted that due to the heart ailment, the Petitioner was admitted in the Hospital and recovered only on 31.08.2024 and hence the Petitioner was unable to file the monthly returns for a continuous period of six months. Consequently, the 2nd respondent issued a show cause notice on 03.01.2024,

proposing the cancellation of the GST registration for non-filing of returns for a continuous period of six months, and suspended the registration with effect from 03.01.2024, by passing an order of cancellation on 06.03.2024. The learned counsel for the petitioner further submits that all notices/communications were uploaded in GST portal. Since the Petitioner was suffering from ailment at that point of time, he was not aware of the show cause notice and hence failed to submit its reply and thereafter impugned order came to be passed and the same was also uploaded on the GST portal. The Petitione came to know of the impugned order belatedly and in the meantime, the time for preferring Statutory Appeal also got expired. He further submitted that the Petitioner undertakes to file returns for the default period and pay the outstanding taxes. He therefore prays for an appropriate order.

5. On the other hand, the learned Government Advocate (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 the petitioner has not paid the outstanding taxes and that revocation of the cancellation of registration will be considered only upon payment of all dues and filing of all returns.

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, on account of the health condition of the Petitioner. Furthermore, the time limit for filing a statutory appeal against the cancellation order had also expired, and the petitioner claims that they were unaware of the notices and communications 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.

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 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.

19.10.2024

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

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   Goods and Service Tax, Trichy & Vellore Division,
   No.4, Fort Round Road, Vellore-1.

2. The Assistant Commissioner (ST),
   Office of Commercial Tax Office,
   Ranipet (Sipcot) Asst Circle.

Krishnan Ramasamy,J.,

arr

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