IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.30731 of 2024
& W.M.P.No.33343 of 2024

AVR Traders,
Rep by its Proprietor V.Kumaresan,
No.400, Aariyapuravadai Road, Near Petrol Bunk,
Valathi Melmalaiyanur,
Villupuram 604 208.

... Petitioner

Vs.

The Superintendent of GST and Central Excise,
Villupuram I Assessment Circle,
Villupuram Range & Division,
Chennai North Commissionerate

... 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 respondent order dated 03.03.2023 in Ref.No.ZA3303230192906 and quash the same and consequently direct the respondents to revoke the cancellation of GST Registration of the petitioner's firm.

For Petitioner : Mr.P.Suresh Babu

For Respondent : Mr.S.Gurumoorthy,
Senior Standing counsel

ORDER

This writ petition has been filed challenging impugned order dated 03.03.2023 passed by the respondent.

2. Mr.S.Gurumoorthy, learned Senior Standing counsel, 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 the turn over of the petitioner had never crossed a sum of Rs.20,00,000/-, for which, they are not liable to pay any GST. Hence, they were under the impression that they are not required to file the ITR. Under these circumstances, the GST Registration of the petitioner was cancelled by the respondent vide order dated 03.03.2023 for non-filing of GST returns

for a period of 6 months. Hence, this petition has been filed.

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 Senior Standing counsel for the respondent confirms that the GST registration of the petitioner was cancelled by the respondent vide impugned order dated 03.03.2023 and requests this Court to pass an appropriate order.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel 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 03.03.2023. According to the petitioner, since their turn over had never crossed a sum of

Rs.20,00,000/-, they are not liable to pay any GST for the said amount and hence, they are under the impression that they are not required to file their returns. Under these circumstances, the GST Registration of the petitioner was cancelled for non-filing of returns 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 petition is also closed.

24.10.2024

Speaking/Non-speaking order
Index : Yes / No

Neutral Citation : Yes / No
nsa

To

The Superintendent of GST and Central Excise,
Villupuram I Assessment Circle,
Villupuram Range & Division,
Chennai North Commissionerate

KRISHNAN RAMASAMY.J.,

nsa

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