IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32020 of 2024
& W.M.P.Nos.34759 and 34760 of 2024

CL SPL No.2 Keelkalpoondi Primary
Agricultural Co-operative Credit Society,
Rep. by its Secretary-Karrupaiya Ramasamy,
437, Main Road, Kilakalpoondi,
Cuddalore- 606 303. ... Petitioner

Vs.

The Superintendent (GST),
Neyveli-II Range,
Virudhachalam. ... Respondent

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 relating to the impugned order vide Form GST REG-19 bearing Ref.No.ZA330823041594K dated 08.08.2023 issued by the Respondent and quash the same, and further direct the Respondent to restore the GST registration of the Petitioner vide GSTIN:33AABAP8875E1ZE.

For Petitioner : Ms.R.Harishni
For Respondent : Mr.K.S.Ramaswamy
Senior Standing counsel

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ORDER

This writ petition has been filed challenging the impugned order 08.08.2024 passed by the Respondent and further direct the Respondent to restore the GST registration of the Petitioner vide GSTIN: 33AABAP8875E1ZE.

2. Mr.K.S.Ramaswamy, 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 Petitioner Society entrusted a local tax consultant for filing and handling of GST Web Portal. He further submitted that due to ill health of the tax consultant of the Petitioner's Firm, he was unable to file monthly GST returns for a continuous period of six months and the Petitioner was not

aware of the said fact. Consequently, a show cause notice dated 05.07.2023 was issued for the cancellation of GST registration for non-filing of returns for a continuous period of six months, and suspended the registration with effect from 08.08.2023, by passing an order of cancellation on 08.08.2023. The learned counsel for the petitioner further submits since the Petitioner's consultant was not feeling well and was hospitalized for a considerable period of time, the Petitioner was not aware of the Show Cause Notice and hence failed to submit its reply, which resulted in cancellation of GST registration. He further submitted that the Petitioner filed all the pending returns belatedly in the month of September 2024, along with necessary late fees. Hence, the learned counsel prays for an appropriate order.

4. On the other hand, the learned Senior Standing Counsel 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 revocation of the cancellation of registration may be ordered on terms.

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

6. Admittedly, the GST registration of the Petitioner was cancelled due to non-compliance in filing returns. Since the Petitioner's consultant was not well and was hospitalized for a considerable period of time, he was unable to file returns and the Petitioner was not aware of the same and only after the cancellation of the GST registration, the Petitioner came to know of the fact that their consultant had not filed the monthly returns. That apart, the Petitioner was also not aware of the Show Cause Notice, which resulted in passing of the impugned order. 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 Petitioner shall pay a sum of Rs.5,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of copy of this order.

(ii) Upon production of proof with regard to the payment of a sum of Rs.5,000/- as stated above, 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 production of proof of payment.

(iii) 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.

(iv) 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.

(v) 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.

(vi) Only such approved ITC shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

(vii) 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.

(viii) 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, the connected miscellaneous petitions are also closed.

28.10.2024

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

The Superintendent (GST),
Neyveli-II Range,
Virudhachalam.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.32020 of 2024

28.10.2024