



WEB COPY



W.P. No.34492 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34492 of 2024

and

W.M.P.No.37390 of 2024

Dilip Tyres,
Represented by its Managing Partner,
Avinash Jain,
1/434, b3, Second Floor,
Saibaba Apartment, NGO Colony,
Rangasamy Street, Idikarai,
Coimbatore 641 022.

.. Petitioner

Vs.

Assistant Commissioner,
Periyanaickenpalayam GST Circle,
Coimbatore.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records on the file of the respondent herein in GSTIN/33AACFD2875J1ZG in FORM GST REG-19 dated 05.08.2024 and quash the same.

For Petitioner : Mr.R.Vasumithran for
K.Siri Chandana



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For Respondent : Mr.G.Nanmaran
Special Government Pleader

ORDER

The present writ petition is filed challenging the impugned order of cancellation of registration dated 05.08.2024 on the limited ground that despite the fact that the petitioner had filed a reply vide letter dated 10.07.2024, in response to the show cause notice dated 02.07.2024 proposing to cancel the registration certificate, the impugned order has been passed on the premise that the petitioner had not submitted its reply.

2. The learned counsel for the respondent would submit that the present writ petition ought not to be entertained inasmuch as the petitioner was found to be non existent and no business activity was carried out from the declared place of business. It was further submitted that the petitioners have filed an appeal challenging the impugned order of cancellation of registration dated 05.08.2024 and the same is pending before the Joint Commissioner.



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3. In response the learned counsel for the petitioner would submit that though an appeal was filed before the appellate authority, however, for want of coram the appellate authority is not currently functioning. Left with no other remedy the petitioner is compelled to approach this Court under Article 226 of the Constitution.

4. It was further submitted by the learned counsel for the petitioner that the cancellation of registration certificate has a serious impact on the petitioner's constitutional rights and that the impugned order suffers from error apparent on the face of the record inasmuch as it records that no reply has been filed to the show cause notice when in fact the petitioner had submitted its reply, which the respondent would also admit.

5. In the circumstance, this Court finds that there is merit in the submission of the learned counsel for the petitioner inasmuch as the impugned order suffers from the vice of non application of mind to the material on record viz., the objections filed by the petitioner.



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6. In view thereof the impugned order dated 05.08.2024 is set aside. It is open to the respondent authority issue a fresh notice and to proceed in accordance with law.

7. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.11.2024

Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

spp

To:

Assistant Commissioner,
Periyanaickenpalayam GST Circle,
Coimbatore.



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MOHAMMED SHAFFIQ, J.

spp

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