



W.P.(MD) No.25830 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.25830 of 2024
and
W.M.P.(MD) No.21927 of 2024**

Tvl.Sri Thirumalai Bhagavan Traders
rep. by its Proprietor
Arunkumar

... Petitioner

/vs./

The Assistant Commissioner,
Palani II Assessment Circle,
Palani,
Dindigul District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the Respondent in his order in Reference No. ZA331024052030I dated 10-10-2024 and quash the same as it is illegal and unjustified and further direct the Respondent to revoke the cancellation of the Registration Certificate under the GST Act bearing GSTIN/UIN.33CDMPA4461L1ZI.

For Petitioner : Mr.A.Satheesh Murugan



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For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

Heard Mr.A.Satheesh Murugan, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2. The present Writ Petition has been filed seeking to quash the order passed by the respondent dated 10.10.2024 and further to direct the respondent to revoke the cancellation of the Registration Certificate under the GST Act bearing GSTIN/UIN: 33CDMPA4461L1ZI.

3. The learned counsel for the petitioner would submit that the petitioner is dealing with Aluminium Scrap and has also been an assessee under the GST Act. He would submit that the respondent by invoking powers under Rule 21(a) of the Rules issued a show cause notice dated 23.08.2024, calling upon the petitioner to submit his explanation for not carrying on the business at the declared place of business. Pursuant thereto, the petitioner had submitted a detailed reply on 28.08.2024. On accepting the petitioner's reply, the respondent vide



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communication dated 26.09.2024, revoked the suspension of registration with effect from 26.09.2024. However, on the very next date ie., on 27.09.2024, a similar show cause notice was issued to the petitioner and the petitioner was under the impression that the said show cause notice dated 27.09.2024 had been mistakenly given by the respondent, as on the date before the said show cause notice, the respondent by accepting the reply given by the petitioner to the earlier show cause notice dated 23.08.2024 had revoked the suspension of registration. But however, to the shock and surprise, the petitioner received the impugned communication dated 10.10.2024 cancelling the registration on the ground for which the petitioner had not been issued with any show cause notice. Therefore, he would submit that the order impugned is in clear violation of principles of natural justice and is in colorable exercise of power and therefore prayed this Court to set aside the same.

4. On the other hand, the learned Special Government Pleader appearing for the respondent would submit that the show cause notice dated 27.09.2024 had been referred to in the order impugned and to such notice, the petitioner had not submitted any explanation which would only envisage that there is no answer to



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the said show cause notice and therefore he would submit that no indulgence is required to be made by this Court and hence seeks dismissal of the Writ Petition.

5. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

6. Admittedly, the said show cause notice had been issued calling upon the petitioner to submit his explanation as to why the registration should not be cancelled, as the petitioner is not carrying on business in the declared address. However, the impugned order cancelling the registration was not made on the reason, on which the show cause notice was issued. There has been no opportunity to the petitioner to submit his explanation on the ground on which the order impugned had come to be passed. In such view of the matter, the impugned order suffers from total non application of mind as also violation of principles of natural justice.

7. It is also to be noted that for the very same reason indicated in the show cause notice dated 27.09.2024, the petitioner had been issued with the earlier



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show cause notice on 23.08.2024 and by an order dated 26.09.2024 accepting the explanation given by the petitioner, the respondent had revoked the order of suspension.

8. For the aforesaid reasons, the impugned order is liable to be set aside and is accordingly set aside. The Writ Petition stands allowed with liberty to the respondent to proceed against the petitioner for the reasons indicated in the impugned order after affording a reasonable opportunity to the petitioner if the respondent so desires. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No

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nsr/mm

To

The Assistant Commissioner,
Palani II Assessment Circle,
Palani,
Dindigul District.

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K.KUMARESH BABU, J.

nsr/mm

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