IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2025

Coram

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5197 of 2025
and
WMP.Nos.5774 and 5775 of 2025

Swathi Meenal
Proprietor of Hook Media
No.7, Manian Mango Groove,
10th Street, Woork Creak Countrt,
Nandambakkam, Chennai,
Tamil Nadu-600069. ...Petitioner

Vs.

The Superintendent,
Nandambakkam, Zone-IX,
Chennai East, Tamil Nadu. ... Respondent

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 relating to the impugned order for cancellation of Registration bearing Ref.No: ZA331120002933A dated 02.11.2020 issued by the Respondent and quash the same, and further direct the Respondent to restore the GST registration of the Petitioner vide GSTIN:33JPBPS1485A1Z0.

For Petitioner : Mr.Francy Victor

For Respondent : Mr.B.Sivaraman
Junior Panel Counsel
for Mr.T.Ramesh Kutty
Senior Panel Counsel

ORDER

The challenge in this writ petition is to the order of the Respondent dated 02.11.2020 and to quash the same and consequently direct the respondent to restore the Petitioner's GST registration .

2. Mr.B.Sivaraman, learned Junior Panel Counsel takes notice on behalf of the Respondent.

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 accountant of the petitioner failed to file returns for a continuous period of six months due to the ill health. Consequently, the respondent issued a show cause notice, proposing the cancellation of the GST registration for non-filing of returns for a continuous period of six months and thereafter passed the order dated 02.11.2020 cancelling the registration of the petitioner. The petitioner

came to know of the non filing of returns and cancellation of GST registration only after five years. The learned counsel for the Petitioner further submits that the petitioner is unable to continue the business due to cancellation of registration.

5. Further, he would submit that opportunity of personal hearing was not afforded to him before passing the cancellation order.

6. On the other hand, the learned Junior Panel Counsel (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 cancellation 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.

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

8. Admittedly, the GST registration of the Petitioner was cancelled due to non-compliance in filing returns. Since the Accountant of the Petitioner was ill, he could not file the returns of the petitioner Company. 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, the orders impugned herein are set aside and the restoration of the GST registration is subject to and conditional upon fulfilling the following conditions :

(i) The Respondents 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 petitions are closed.

17.02.2025

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

To

The Superintendent,
Nandambakkam, Zone-IX,
Chennai East, Tamil Nadu.

Krishnan Ramasamy,J.,

arr

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