IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5289 of 2025&
W.M.P.No.5865 of 2025

M/s.Golden Enterprises,
Rep. by its Proprietor Mr.Nagarajan Mohan Babu
Door No.703, Oppanakara Street,
Coimbatore:641 001,
Tamil Nadu ... Petitioner

Vs.

The Assistant Commissioner,
Trichy Road,
Coimbatore, Tamilnadu. ... 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 of the impugned order of cancellation of Registration vide Ref. No.ZA3301251651315 dated 27.01.2025 with retrospective effect from 1.7.2017, from the files of the respondent herein, quash the same, and further direct the respondent to restore and activate the registration of the petitioner granted under the Central Goods and Services Tax Act, 2017 and the Tamil Nadu Goods and Services Tax Act, 2017 in GSTIN 33AILPM4478P1ZH.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 27.01.2025 passed by the respondent, cancelling the GST registration of the petitioner, on the ground that the petitioner has not conducted any business in the declared place of business.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes), 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 petitioner is a registered tax payer under the GST enactments and they have been paying tax and filing the GST returns regularly. While so, the respondent issued a show cause notice on 06.11.2024, proposing the

cancellation of the registration for the reason that the petitioner has not conducted any business in the declared place of business and that apart the registration stood suspended with effect from 06.11.2024, for which the petitioner filed detailed response on 13.11.2024 stating that since the petitioner's proprietor had gone to abroad during the deepavali holidays and as the business was doing slow at the relevant point of time, they closed the business for 15 days. But the respondent without considering the same has passed an order of cancellation on 27.01.2025. The learned counsel for the petitioner further submits that despite the petitioner paying the tax and filing returns regularly, the respondent without application of mind has passed the impugned order of cancellation and hence she prays to set aside the same.

5. On the other hand, the learned Government Advocate (Taxes) appearing for the respondent submitted that the cancellation order came to be passed only after considering the reply filed by the petitioner and prayed for appropriate orders.

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

7. In the case on hand, admittedly the petitioner has been paying the tax and filing the returns regularly. Since the petitioner's premises was closed at the time of inspection, the GST registration of the petitioner was cancelled, without ascertaining the fact whether the petitioner is carrying on the business or not. The reason given by the petitioner is that since the proprietor had gone to abroad during deepavali holidays, the business was closed for 10 days. The respondent without ascertaining the same has erred in coming to the conclusion that the petitioner was not carrying any business in the declared place. Therefore, this Court is of the view that the reason provided by the petitioner appears to be genuine.

8. In view of the above, this Court is inclined to set aside the impugned order dated 27.01.2025 and restore the GST registration of the petitioner.

9. Accordingly, this Court passes the following order:

(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 ***one week*** 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.

10 . With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

17.02.2025

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Note: Issue order copy on 19.02.2025

To

The Assistant Commissioner,
Trichy Road,
Coimbatore, Tamilnadu.

KRISHNAN RAMASAMY.J

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