IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5404 of 2025
and
W.M.P.Nos.5954 & 5955 of 2025

M/s.Shine Enterprises,
Rep by its Proprietor,
Mr.V.Selvakumar,
B2, Ananthi Apartments,
Plot No.20, Sri Ranganathan Nagar,
II Street, Agaram Main Road,
Selaiyur, Chennai-Kancheepuram,
TamilNadu 600 073

... Petitioner

Vs.

Assistant Commissioner/State Tax Officer,
Selaiyur Circle,
State Goods and Service Tax Office (GST),
Greenways Road, II Floor,
Taluk Office Complex,
Chennai 600 028.

... 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 relating to the impugned order GSTIN 33GDGPS3366N1ZW dated 07.11.2023 with effect from 01.04.2021 passed by the respondent under Section 29(2)(c) of the TNGST Act for the tax period of financial years 2021-22, 2022-23 and 2023-24.

For Petitioner	:	Mr.S.Siva Shankar
For Respondent	:	Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging impugned order dated 07.11.2023 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, 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 was registered with the GST Authorities and they were assigned GST Identification Number on 01.07.2017. Thereafter, they

carried on the business of 'labour service' for several years. Further, he would submit that the petitioners are exempted from payment of SGST as their services are for Government Agencies. However, without considering the same, the GST Registration of the petitioner was cancelled by the respondent vide impugned order dated 07.11.2023 on the aspect that the petitioner had failed to furnish returns.

4. Further, he would submit that the petitioner is willing to file his GST returns and pay the entire tax liabilities along with applicable interest and penalty, if any. Hence, he requests this Court to revoke the order passed by the respondent for cancellation of GST Registration of the petitioner.

5. In reply, the learned Government Advocate for the respondent confirms that the GST registration of the petitioner was cancelled by the respondent vide impugned order dated 07.11.2023 and requests this Court to pass an appropriate order.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In this case, the GST registration of the petitioner was cancelled by the respondent vide the impugned order dated 07.11.2023. According to the petitioner, petitioners are exempted from payment of SGST as their services are for Government Agencies. However, without considering the same, the GST Registration was cancelled by the respondent on the aspect that the petitioner had failed to furnish returns.

8. In view of the above, this Court is inclined to revoke the impugned order passed by the respondent canceling the GST registration of the petitioner. Accordingly, the impugned order dated 07.11.2023 is hereby set aside. The cancellation of registration is hereby revoked, subject to the fulfillment of the following conditions:

(i) 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 therefrom.

(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 scrutinising 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 cost. Consequently, the connected miscellaneous petitions are also closed.

18.02.2025

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

To

Assistant Commissioner/State Tax Officer,
Selaiyur Circle,
State Goods and Service Tax Office (GST),
Greenways Road, II Floor,
Taluk Office Complex,
Chennai 600 028.

KRISHNAN RAMASAMY.J.,

nsa

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