IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9036 of 2025
and
W.M.P.No.10141 of 2025

Mr.Ashok Kumar
Partner
AK ASSETS ENTERPRISES ... Petitioner

..Vs..

The Commercial Tax Officer
Medavakkam Assessment Circle,
Zone-VIII Chennai East,
No.26D, Ground Floor,
BHEL Nagar, 4th Main Road,
Medavakkam, Chennai-600 100. ... 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 of the Respondent in Reference No.ZA3312222507320 dated 26.12.2022 and quash the same and consequently direct the respondent to revoke the cancellation of GSTIN. 33ABVFA3474A1ZK and restore/activate the registration of the petitioner.

For Petitioner : Mr.K.Chandrasekaran

For Respondent : Mr.C.Harsha Raj
Special Government Pleader

ORDER

The challenge in this writ petition is to the order dated 26.12.2022 passed by the respondent and to quash the same and consequently direct the respondent to revoke the cancellation of GST registration of the petitioner.

2. Mr.C.Harsha Raj, learned Special Government Pleader (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, due to the pandemic, the petitioner had not carried on any business activities resulting in financial crisis. As a result, the Petitioner was unable to file the monthly returns for a continuous period of six months. 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 suspended the registration with effect from 30.11.2011, by passing an order of cancellation

on 26.12.2022. The learned counsel for the Petitioner further submits that all notices/communications were uploaded in GST portal. However, since the petitioner had not operating the business they had not known they were not aware of the show cause notice. Challenging the impugned cancellation order, this Writ Petition has been filed.

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 Special Government Pleader (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. Due to pandemic, the petitioner had not carried any business resulting in financial crisis and hence could not file the returns. The Petitioner claims that they were unaware of the notices and communications sent through the GST Portal. 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 order impugned herein is set aside and the restoration of the GST registration is subject to and conditional upon fulfilling 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 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 petition is closed.

19.03.2025

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

To

The Commercial Tax Officer
Medavakkam Assessment Circle,
Zone-VIII Chennai East,
No.26D, Ground Floor,
BHEL Nagar, 4th Main Road,
Medavakkam, Chennai-600 100

Krishnan Ramasamy,J.,
arr

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