IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.9752 of 2025
and
W.M.P.Nos.10927 and 10928 of 2025

Manoj Kumar ...Petitioner

Vs.

The Commercial Tax Officer,
Dharapuram,
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 vide Form GST REG - 19 bearing Ref.No.:ZA330125119769G dated 21.01.2025 issued by the Respondent and quash the same, and further direct the Respondent to restore the GST registration of the Petitioner vide GSTIN-33AYMPM9386M1ZH.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (Tax)

ORDER

The challenge in this writ petition is to the order dated 21.01.2025 passed by the respondent, cancelling the 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 the Petitioner is a registered under the CGST Act, 2017 and is an assessee on the file of the respondent. The petitioner had entrusted a local tax consultant for filing and handling of GST web portal and was under the bonafide belief that the tax consultant had paid all the returns. However, it was late found that the said accountant failed to file the returns due to his ill health. Consequently, the respondent issued a show cause notice on 05.11.2024, proposing the cancellation of the GST registration for non-filing of returns for a continuous

period of six months, and subsequently passing an order of cancellation on 21.01.2025. The learned counsel for the petitioner further submits that since the show cause notice was uploaded in the GST portal, he could not file reply within the stipulated time limit. Further, he would submit that now the Petitioner is ready to file the GST returns till date and hence prays to set aside the impugned order.

5. 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 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.

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

7. Admittedly, the GST registration of the petitioner was cancelled due to non-compliance in filing returns and the petitioner stated that due to the ill

health of the petitioner's consultant, he could not file the returns. 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, 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.

19.03.2025

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

Krishnan Ramasamy,J.,
arr

To

The Commercial Tax Officer,
Dharapuram,
Tamil Nadu.

W.P.No.9752 of 2025

19.03.2025