IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.10839 of 2025
and
W.M.P.Nos.12211 and 12212 of 2025

Carrywings Lines Private Limited,
Represented by its Director, Mrs.Vimala Veerasamy,
Flat No.06, C Block, 2nd Floor, Air India Flats,
Medavakkam Tank Road,
Kilpauk, Chennai.
Tamil Nadu- 600 010. ...Petitioner

Vs.

The Assistant Commissioner,
Kilpauk Assessment Circle-Zone II,
F-50 1st Avenue, Anna Nagar East
Chennai, Tamil Nadu-600 102. ... 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 impugned proceedings of the Respondent passed in Reference Number:ZA330524031907L dated 08.05.2024 and quash the same, as the impugned proceedings is in violation of principles of principles of natural justice, cryptic, arbitrary and further direct the Respondent to restore and activate the registration of the petitioner under the TNGST Act, 2017.

For Petitioner : Mr.Saitanya Kesan

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

ORDER

The challenge in this writ petition is to the order dated 08.05.2024 passed by the respondent, cancelling the GST registration of the petitioner.

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 engaged in shipping and logistics business which is highly seasonal in nature based on the products that are shipped. In the later part of 2023, due to variety of global trade factors and geo-politics, the business of the petitioner faced absence of new orders and therefore the accountant who was engaged by the petitioner failed to file the returns. Consequently, the respondent issued a show cause notice on 06.04.2024, 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 08.05.2024. The learned counsel for the petitioner further submits that the petitioner came to know of the cancellation of the GST registration only in the last week of December 2024. The petitioner promptly remitted the late fee payment on 03.01.2025.

5. On the other hand, the learned Government Advocate (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 since the petitioner did not have any business in the later part of 2003, the petitioner's

accountant failed to 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 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 petitions are closed.

26.03.2025

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

Krishnan Ramasamy,J.,
arr

To

The Assistant Commissioner,
Kilpauk Assessment Circle-Zone II,
F-50 1st Avenue, Anna Nagar East
Chennai, Tamil Nadu-600 102.

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