IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

Coram

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

W.P.Nos.11677 and 11679 of 2025
and
W.M.P.Nos.13209 and 13212 of 2025

Mr.M.S.Manikandan
Proprietor of M/s.M.S.M.Transport,
45/3/21B, 2nd floor, CKP Plaza,
Thillaipuram main road,
Namakkal, Tamil Nadu-637001. ...Petitioner in both W.P.'s

Vs.

1. The Assistant Commissioner,
   Namakkal (Town) Assessment Circle,
   Salem, Tamil Nadu.

2. The Joint Commissioner,
   Namakkal (Town) Assessment Circle,
   Salem, Tamil Nadu. ... Respondent in both W.P.'s

Prayer in W.P.No.11677 of 2025: 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 impugned order of cancellation of registration vide Reference No.ZA330524033800Z dated 08.05.2024 with retrospective effect from 28.02.2023, from the files of the first respondent herein, quash the same, and further direct the first respondent to restore and activate the registration of the petitioner granted under the Central Goods and Services Act, 2017 and

Tamil Nadu Goods and Services Tax Act, 2017 in GSTIN 33ARVPM3699P1ZJ.

Prayer in W.P.No.11677 of 2025: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to to call for the records of the impugned order for rejection of application for condonation of delay of revocation application of cancellation of registration vide order in Ref No.ZA3303250212148 dated 04.03.2025, from the files of the 2nd respondent herein, quash the same, and further direct the 2nd 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 33ARVPM3699P2ZJ.

For Petitioner (in both W.P.'s)	:	Ms.Aparna Nandakumar
For Respondent (in both W.P.'s)	:	Mr.V.Prashanth Kiran Government Advocate (Taxes)

COMMON ORDER

Since the issue involved and the relief sought for in these writ petitions are one and the same, they are taken up together and disposed of by a common order.

2. Mr.V.Prashanth Kiran, learned Government Advocate (Taxes) takes notice on behalf of the respondents. By consent, this writ petition is taken up for

final disposal at the stage of admission itself.

3. W.P.No.11677 of 2025 has been filed challenging the order of the 1st respondent dated 08.05.2024, cancelling the GST registration of the petitioner.

4.W.P.No.11679 of 2025 has been filed challenging the order of the 2nd respondent dated 04.03.2025 rejecting the application for condonation of delay of revocation application of cancellation of registration.

5. The learned counsel for the petitioner submitted that the petitioner is engaged in transport services via pipeline of natural gas and other transport services and they are the assessee on the file of the 1st respondent. The petitioner was regular in filing the monthly returns until February 2023. However, after the second wave of COVID-19, due to financial constraints and heavy losses, the petitioner could not filed the returns for the continuous period of six months. Consequently, the 1st respondent issued a show cause notice on 06.12.2023, 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. Since the petitioner's consultant failed to monitor the GST portal, the petitioner was aware of the cancellation of

registration. The petitioner came to know of the cancellation of the GST registration belatedly. Immediately, the petitioner filed an application for revocation of cancellation before the 2nd respondent and the 2nd respondent issued show cause notice dated 19.02.2025 along with personal hearing notice on 26.02.2025. Since the petitioner was ill, he could not attend the personal hearing. However,the petitioner instructed his chartered accountant to file a letter citing the reason for absence for personal hearing and to grant opportunity of another personal hearing. Since the petitioner's chartered accountant failed to do so, the 2nd respondent has rejected the revocation application filed by the petitioner vide order dated 04.03.2025.

6. On the other hand, the learned Government Advocate (Taxes) appearing for the respondents 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 and as the petitioner had not attended the personal hearing, revocation application came to be rejected. 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 and the petitioner stated that after the second wave of COVID-19, due to financial constraints and heavy losses in the business of the petitioner, the petitioner could not filed the returns for the continuous period of six months. 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.

9. 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.

10. With the above directions, W.P.No.11677 of 2025 is disposed of.

11. In view of the order passed by this Court in W.P.No.11677 of 2025, W.P.No.11679 of 2025 is closed. No costs. Consequently, connected miscellaneous petitions are closed.

02.04.2025

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

1. The Assistant Commissioner,
   Namakkal (Town) Assessment Circle,
   Salem, Tamil Nadu.

2. The Joint Commissioner,
   Namakkal (Town) Assessment Circle,
   Salem, Tamil Nadu.

Krishnan Ramasamy,J.,

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W.P.Nos.11677 and 11679 of 2025

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