IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.04.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.12409 of 2025
and
W.M.P.Nos.14013 and 14015 of 2025

M/s.SRI TECH,
Represented by its Proprietor,
Mrs.B.Latha
No.1, Plot No.137A, 6th Cross Street,
Srinivasa Nagar, Kolathur,
Chennai-600 099. ...Petitioner

Vs.

1. Assistant Commissioner/State Tax Officer,
Villivakkam Circle
State Goods and Service Tax Office,(GST)
CT-Annexe Building,
No.1, Greams Road, Thousand lights,
Chennai- 600 006.

2. The Assistant/Deputy Commissioner of GST and
Central Excise, Ponneri Division, R-40/A-1-100
Feet Road, Mogappair East,
Chennai- 600 037. ... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned cancellation order (Reference No.A3310230294137)GSTIN 33ADOPL2977Q1ZO dated 09.10.2023 with effect from 31.07.2023 passed by the respondent under Section of Section 29(2)(c) of the TNGST Act for the tax period of financial years 2022-2023, 2023-2024 & 2025.

For Petitioner : Mr.S.Siva Shankar

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader
(Taxes) (R1)
Mr.A.P.Srinivas
Senior Standing Counsel (R2)

ORDER

The challenge in this writ petition is to the order dated 09.10.2023 passed by the 1st respondent, cancelling the GST registration of the petitioner.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the 1st respondent. Mr.A.P.Srinivas, learned Senior Standing Counsel takes notice on behalf of the 2nd 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 not filed the returns for the financial years 2023-

2024 due to his ill health. Consequently, the respondent issued a show cause notice on 21.09.2023, 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 09.10.2023. 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 counsel 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 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 her ill health, she 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.

08.04.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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Krishnan Ramasamy,J.,

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To

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   State Goods and Service Tax Office,(GST)
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