IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :21.04.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.13918 of 2025 &
W.M.P.Nos.15655 and 15656 of 2025

M/s.V.V.Constructions,
Represented by its Managing Partner,
Mr.Venkatesh Raju,
No.2, Lakshmi Nagar, Edayarpalayam Pirivu,
Kuniyamuthur, Coimbatore,
Tamil Nadu-641008. ... Petitioner

Vs.

The Assistant Commissioner
Kuniyamuthur Assessment Circle,
Coimbatore. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records leading to the issuance of assessment order for cancellation of registration bearing reference no.GSTIN:ZA330624227766D dated 26.06.2024 by the Respondent herein and quash the same and further direct the Respondent to restore the GST registration of the petitioner vide GSTIN:33AANFV9935C1ZV and pass orders.

For Petitioner : Ms.Sri Harini S P

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

ORDER

The challenge in this writ petition is to the order dated 26.06.2024 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 tax payer under the GST enactments however, due to financial constraint,the Petitioner could not file the returns for the continuous period of 6 months. Consequently, the respondent issued a show cause notice on 12.03.2024, 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 26.06.2024. The learned counsel for the petitioner further submits that since the show cause notice was uploaded in the GST portal without serving physical copy of the same to the petitioner, the petitioner was unaware of the same and that apart the petitioner's accountant was also failed to notice the show cause notice uploaded by the respondent in the GST portal and hence failed to submit the reply, which resulted in passing of the impugned order. He therefore prays to set aside the same.

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 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. Furthermore, the petitioner stated that due to the financial constraint, they could not file the returns and since the show cause notice was uploaded in the GST Portal and as the petitioner's consultant failed to notice the show cause notice uploaded in the GST portal, the petitioner was not aware of the same and hence could not file its reply, which resulted in passing of the impugned order. 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.

21.04.2025

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To

The Assistant Commissioner
Kuniyamuthur Assessment Circle,
Coimbatore.

KRISHNAN RAMASAMY.J.,

arr

W.P.No.13918 of 2025

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