IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.16533 of 2025 &
W.M.P.No.18683 of 2025

Apeksha Jewellers
Represented by its Proprietor MANOJ KUMAR,
T-3 Third Floor,145/71, Merlechas Tower,
Netaji Subhash Chandra Bose Road,
Sowcarpet, Chennai- 600 079. ... Petitioner

Vs.

The Superintendent,
N.S.C.Bose Road, Assessment Circle
Range IV, Parry's Division,
Chennai-North Commissionerate. ... 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 respondent order dated 18.09.2024 in Reference Number:ZA330924117609C and quash the same and consequently direct the respondent to revoke the cancellation of GST registration of the petitioner.

For Petitioner : Mr.P.Suresh Babu

For Respondent : Mr.A.P.Srinivas
Senior Standing Counsel

ORDER

The challenge in this writ petition is to the order dated 18.09.2024 passed by the respondent, cancelling the GST registration of the petitioner and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner.

2. Mr.A.P.Srinivas, learned Senior Standing Counsel, 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 and they have been filing the GST returns regularly, however, since the petitioner have no turnover morethan 20 lakhs, the petitioner failed to file the returns. He further submitted that inadvertently the petitioner failed to

file even the nil returns. Therefore, the respondent issued a show cause notice on 08.07.2024, 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 18.09.2024. The learned counsel for the petitioner further submits that since the show cause was uploaded in the GST portal, without serving physical copy of the same to the petitioner, the petitioner was not aware of the same and hence could not file its reply, which resulted in passing of the impugned order. When the petitioner intend to file returns during March 2025, the petitioner came to know of the cancellation of the registration. However, since the GST registration was cancelled the petitioner's business have been heavily affected. He therefore prays to set aside the impugned order and direct the respondent to revoke the cancellation of GST registration of the petitioner

5. On the other hand, the learned Senior Standing Counsel 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 time limit for filing an application for revocation of the cancellation and also for filing statutory appeal against the cancellation order had also expired, and the petitioner stated that due to slowdown in the business of the Petitioner, they could not pay GST dues and 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 petition is closed.

02.06.2025

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To

The Superintendent,

N.S.C.Bose Road, Assessment Circle
Range IV, Parry's Division,
Chennai-North Commissionerate.

RISHNAN RAMASAMY.J.,

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