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.16208 of 2025 &
W.M.P.No.18331 of 2025

Palaniswamy Gayathri
Proprietor, Annamalaiyar Garments,
5/1405, 1C, Near Saran Hospital,
Palanisamy Nagar, Boyampalayam Pirivu,
Tiruppur-641602. ... Petitioner

Vs.

Assistant Commissioner
Tiruppur (Rural)-1,
Indira Nagar,
Tirupur-641603. ... 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 relating to the impugned order dated 31.01.2024 bearing Reference No.ZA3301242479140 passed by the Respondent, quash the same and consequently,allow for restoration of the registration of the petitioner under CGST Act, 2017.

For Petitioner : Mr.Athiban Vijay A K

For Respondent : Ms.P.Selvi
Government Advocate (Taxes)

ORDER

The challenge in this writ petition is to the order dated 31.01.2024 passed by the respondent, rejecting the application for revocation of cancellation of GST registration.

2. Ms.P.Selvi, learned Government Advocate, 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, due to severe mental stress and physical illness, the petitioner was unable to conduct the business, as a result, the Petitioner could not file its returns. 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. 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 order of cancellation of GST registration and the same was also uploaded in the GST portal. Thereafter, after coming to know of the order of cancellation of GST registration, the petitioner has filed the pending monthly returns upto the date along with applicable late fee. The petitioner had also filed the application for revocation of cancellation. But instead of revoking the GST registration, the respondent has issued another show cause notice dated 27.12.2023. Due to health issues and lack of prior knowledge of the notice, the petitioner was unable to respond to the said notice. Subsequently, the respondent passed the impugned order rejecting the application for revocation of cancellation. He therefore prays to set aside the same.

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 cancellation order and since the petitioner had not filed the reply for the show cause notice dated 27.12.2023, impugned order came to be passed. 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 application for revocation of cancellation was also rejected vide the impugned order. It is stated that due to mental stress and physical illness, the petitioner 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 impugned order dated 31.01.2024 is set aside subject to the payment of a sum of Rs.5,000/- to the Principal Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code: IDIB000M157, within a period of 2 weeks from the date of receipt of copy of this order and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) Upon production of proof with regard to the payment of a sum of Rs.5,000/- as stated above, 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.

(iii) 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.

(iv) 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.

(v) 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.

(vi) Only such approved ITC shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

(vii) 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.

(viii) 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.

02.06.2025

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To

Assistant Commissioner
Tiruppur (Rural)-1,
Indira Nagar,
Tirupur-641603.

KRISHNAN RAMASAMY.J.,

arr

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