IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22779 of 2025
and
WMP.No.25598 of 2025

M/s.JM Properties,
Represented by its Partner
Mr.K.Parthasarathi,
No.39/2, P.T.Rajan Salai, K.K.Nagar
Chennai, Tamilnadu - 600078

...Petitioner

Vs.

1. The Superintendent,
K.K. Nagar, Central - I,
Chennai Central.

2. The Joint Commissioner
(Appeals-II)
Office of the Commissioner of GST and Central Excise (Appeals-II)
Newry Towers, 2nd floor, No.2054/I, II Avenue,
12th main road, Anna Nagar, Chennai - 600 040.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for the records of the first respondent in Ref No.ZA3309210699471 dated 16th September 2021 and quash the said proceedings passed therein.

For Petitioner : Ms.S.Vishnupriya

For Respondents : Mr.R.P.Pragadish,
Senior Standing Counsel
and
Mr.T.Nalinidhar,
Jr.Standing Counsel

ORDER

The challenge in this writ petition is to the order dated 16.09.2021 passed by the respondent, rejecting the application for revocation of cancellation of GST registration.

2. Mr.R.P.Pragadish, learned Senior Standing Counsel and Mr.T.Nalinidhar, learned Junior Standing Counsel, learned Junior Standing Counsel, takes notice on behalf of the respondents.

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 till September 2021, however, due the to the health condition of the Managing partner of the petitioner Firm, who was involved in day to day activities of the petitioner's firm and also on account of Covid 19 pandemic, he was unable to fully concentrate on his business, as a result, he could not file returns. Consequently, the first respondent issued a show cause notice on 02.09.2021, 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 16.09.2021. 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. Challenging the said order, the petitioner filed an Appeal before the 2nd respondent on 22.03.2025 and the same was dismissed as "time-barred." He further submitted that in view of the

cancellation of the GST registration, the petitioner is unable to continue their business as the GST. He therefore 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 cancellation order and since the petitioner had not filed the reply for the show cause notice cancellation 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. He also submitted that the order impugned may be set aside subject to terms.

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. It is stated that due to health

condition of the Managing partner of the Petitioner Firm and also due to covid 19 pandemic, 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 16.09.2021 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.
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> (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 petition is closed.

25.06.2025

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Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

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3. The Principal Government Naturopathy Medical College and Hospital,
Chennai.

KRISHNAN RAMASAMY, J.

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