IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24023 of 2023
and
W.M.P.Nos.23512 and 23515 of 2023

1.Azeem Transport Company,
Registered Partnership Firm,
Represented by its Partner
I.A.Garbiey Nawas.

2.G.Rahila Begam ... Petitioners

Vs.

The Assistant Commissioner (ST),
Central II Assessment Circle,
Thiruppur II office of the Assistant Commissioner (ST),
Tiruppur. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for records of the respondent in proceedings dated 12.04.2023 in GSTIN 33ABAFA499L1Z7 and quash the same, and consequently direct the respondent to register the amendment sought by the Petitioner vide online application dated 16.07.2020.

For Petitioners : Mr.Nissar Ahmed
Senior Counsel for
Mr.I.Kowser Nissar

For Respondent : Mr.C.Harsharaj
Additional Government Pleader

ORDER

This is the third round of litigation before this Court.

2. In this Writ Petition, the Petitioner has challenged the assessment order dated 12.04.2023 passed by the Respondent, pursuant to an order dated 27.02.2023 of this Court in W.P.No.16001 of 2022.

3. The Petitioner is a partnership firm, which was earlier constituted with the present partners of the Petitioners' Firm along with the father and mother of Mr.I.A.Garbiey Nawas, the deponent in this Writ Petition.

4. The Petitioner's partnership firm was constituted at the time when the partnership firm was governed under the provisions of the TNVAT Act, 2006. Thereafter, registration obtained by the Petitioner's partnership firm under the provisions of the TNVAT Act, 2006 was transitioned in view of the introduction of TNGST Act, 2017 with effect from 01.07.2017.

5. The specific case of the Petitioner is that the other two partners namely N.Azeem Basha and A.Haseena Begam who are none other than the father and mother of deponent, namely Mr.I.A.Garbiey Nawas exited from the partnership on 18.04.2019 and thereafter on 19.04.2019, the Petitioner's firm was thereafter re-constituted with the deponent along with the 2nd Petitioner.

6. In this background, the Petitioner had made an application for amendment of the Petitioner's registration GST registration by filing an application on 18.03.2020. A Show Cause Notice was issued to the Petitioner on 27.03.2020 in response to the aforesaid application. In the aforesaid Show Cause Notice, it was stated as under:-

> *1.Promoters/partners – Residential Address-Others (Please specify)- since the concerned tax payer has the liability to pay around 2.5 cr with interest and penalty wherever applicable under erstwhile act after payment of the due, the amendment request will be considered.*

7. The aforesaid liability in the Show Cause Notice pertains to the tax liability of N.Azeem Basha under the erstwhile provisions. A reminder was thereafter sent on 16.07.2020 to upload the representation along with requisite documents by 29.07.2020.

8. It is in this background, an order came to be passed on 15.09.2020, whereby, the petitioner was informed that the application filed by the Petitioner on 18.03.2020 was rejected. This was the subject matter of the challenge in the first round of litigation before this Court in W.P.No.6274 of 2021.

9. Pursuant to the direction of this Court vide order dated 15.12.2021 in W.P.No.6274 of 2021, the Petitioner also gave a representation on 20.12.2021 which culminated in an order dated 10.01.2022, whereby, the Petitioner was informed that the application dated 18.03.2020 and 16.07.2020 was for reconstitution of the firm and not for registration and the same cannot be approved with retrospective effect from 18.04.2019.

10. Therefore, it was stated by the Respondent by order dated 10.01.2022 based on the application filed by the Petitioner on 18.03.2020 and 16.07.2020, a new registration certificate cannot be issued to the Petitioner's firm by the Respondent in accordance with law.

11. This was again the subject matter of challenge before this Court in W.P.No.16001 of 2022, whereby by an order dated 27.02.2023 this Court had

set aside the aforesaid order and remitted the case back to the respondent to pass a fresh order with the following observations:-

> *"9.In the result, the impugned order dated 10.01.2022 passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law. The respondent is directed to pass final orders within a period of eight weeks from the date of receipt of a copy of this order, after affording a fair hearing to the petitioner including granting them with the right of personal hearing."*

12. Pursuant to the above, the impugned order has now been passed on 12.04.2023. By the impugned order, the respondent has rejected the application filed for reconstitution of the Petitioner's firm by deleting the names of Tvl.N.Azeem Basha and Tvl.N.Haseena Bagam in reference to Rule 19(1) and 19(1A) of the TNGST Rules, 2017.

13. Relevant portion of the impugned order reads as under:-

> *"1. The TNGST Rule 19(1) had stated as follows:-*
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> *"Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG 01 or FORM GST REG 07 or FORM GST REG 09 or FORM REG 10 or for Unique Identity Number in FORM GST REG 13, either at the time of obtaining registration or Unique Identity Number or as amended form time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG 14, along with the documents relating to such change at the common portal,*

either directly or through a Facilitation Center notified by the Commissioner".

(1A) " Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in FORM GST REG 14 on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to conditions as the Commissioner may, in the said order, specify".

14. I have considered the submissions made by the learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondent.

15. The challenge to the impugned order appears to be reasonable as the impugned order has invoked Rule 19(1) of the respective GST Rules to reject the prayer of the Petitioner in the aforesaid application for reconstitution of the Petitioner's partnership firm for GST registration.

16. Rule 19(1) of the respective GST Rules is directory and not mandatory. Even if there is a failure on the part of the Petitioner's firm in approaching the authorities for GST registration by filing an application in Form GST REG – 14 within a period of fifteen days of such change, along with the documents relating to such change at the common portal, only a

General Penalty can be imposed under Section 125 of the respective GST enactments. However, it would not mean that change of the constitution firm and amendment in the registration reflecting the change in constitution cannot be made.

17. Therefore, the reasons given in the impugned orders in rejecting the application of the Petitioners are held to be unsustainable. Consequently, there shall be a direction to the Petitioner to file an application in Form GST REG – 14 within a period of 15 days from the date of receipt of a copy of this order. The Respondent shall thereafter effect changes in the Petitioner's GST registration with effect from the date of the 2nd application dated 25.03.2023 and in accordance with law.

18. As far as arrears of tax is concerned, it is always open for the Respondent to proceed against the erstwhile partner of the Petitioner's firm and as also recover the arrears in accordance with law.

19. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

11.12.2025

Neutral Citation : Yes / No
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<u>To</u>:

The Assistant Commissioner (ST),
Central II Assessment Circle,
Thiruppur II office of the Assistant Commissioner (ST),
Tiruppur.

C.SARAVANAN, J.

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