BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.24482 of 2025
AND
W.M.P.(MD)Nos.19218 & 19219 of 2025

Tvl.Ponnian Jaya Singh ... Petitioner

Vs.

The Assistant Commissioner,
Kuzhithurai Assessment Circle,
Commercial Tax Department,
Kuzhithurai. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records culminating in the impugned order of cancellation of GST registration passed by the respondent in Form GST REG-19, Reference No.ZA330825241465H dated 29.08.2025 and quash the same as illegal, arbitrary and violative of the provisions of the TNGST Act, 2017, further directing the respondent to forthwith restore the petitioner's GST registration (GSTIN:33AEFPJ3795Q1ZV) to 'Active' status and permit return filing and compliances.

For Petitioner : Mr.N.Sudalai Muthu

For Respondent : Mr.R.Suresh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard both sides.

2.The writ petitioner is a registered dealer under the TNGST Act, 2017. He is a Class-I contractor. He is an assessee falling within the jurisdiction of the respondent.

3.The petitioner's business premises were inspected under Section 67 of the Act on 08.01.2025 and 09.01.2025. According to the department, the inspection indicated that there was tax evasion on the part of the writ petitioner. Hence, show cause notice dated 25.07.2025 was issued proposing to cancel the writ petitioner's registration. Simultaneously, registration was also suspended. The writ petitioner did not offer his reply. He also did not appear for personal enquiry. The respondent issued the impugned order dated 29.08.2025 cancelling the petitioner's registration. Challenging the same, this writ petition has been filed.

4.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order.

5.The learned Additional Government Pleader appearing for the respondent submitted that the writ petitioner had suppressed his turnover right from the year 2018-19 onwards. He had also suppressed the turnover for the months of April, May, June and July 2025-26 to the tune of Rs.2,13,39,325/-. As a result, there was a tax evasion in CGST to the tune of Rs.19,20,539.25 and SGST to the tune of Rs.19,20,539.25/-. Since the petitioner had deliberately contravened the statutory provisions, the authority was left with no other option but to cancel the registration. He would also add that the petitioner can as well go before the very same authority for revocation under Section 30 of the Act r/w.Rule 23 and that therefore, this Court may dismiss the writ petition.

6.I carefully considered the rival contentions and went through the materials on record.

7.The show cause notice dated 25.07.2025 reads that there was suppression of turnover to the tune of Rs.45,19,937.77 and tax evasion to the tune of Rs.8,13,588.79. But the final order reads that the turnover suppression of about Rs.2,13,39,325/- with the tax evasion of CGST Rs.1920539.25/- and SGST Rs.1920539.25/-. It is well settled that there must be consonance between what is alleged in the show cause notice and what is found against the notice in the final order. The final demand may be less compared to what is set out in the show cause notice. But the tax demand in the final order cannot exceed the amount specified in the show cause notice. The order impugned in this writ petition is liable to be faulted on this ground.

8.The next ground based on which the impugned order has been passed is that the assessee did not file returns for the period from 01.04.2025 to 30.06.2025. This ground is again not sustainable. This is because as per Rule 21(h) and (I), the registration is liable to be cancelled if the registrant being required to file return under sub-section (1) of Section 39 for each month or part thereof, has not furnished returns for a continuous period of six months or being required to file return under proviso to sub-section (1) of Section 39 for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods. The case of the writ petitioner will not fall under either of the categories. In any event, the period allowed under law had admittedly not expired. The learned counsel for the petitioner draws my attention to the decision of the Delhi High Court reported in ***(2024) 168 taxmann.com 107 (Delhi) (Subhana Fashion Vs. Commissioner, Delhi GST)***. In the aforesaid decision, it has been held therein that non-payment of dues for a period of three months is not a prescribed ground for cancelling the petitioner's GST registration.

9.The third ground for cancellation is that there is discrepancy between GSTR 7 filed by the deductors and what was reported by the assessee in his monthly returns in GSTR 3B. No doubt this would constitute a contravention of the statutory provisions. Section 29(2) of the Tamil Nadu Goods and Services Tax Act, 2017 provides for cancellation of registration of a tax payer (dealer). It reads as follows : -

> "**29.Cancellation or suspension of registration** – (1) ...
>
> (2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard."

10.Even though the authority may have the statutory power to cancel registration, this power must be not only be reasonably exercised but must be exercised only as a measure of last resort. If one's registration is cancelled, it would spell his economic doom. The Hon'ble Division Bench of the Bombay High Court vide order made in WP No.11833 of 2022 dated 16.02.2023 (Rohit Enterprises v. Commissioner, State GST Bhawan) held as follows :

> "9.In our view, the provisions of GST enactment cannot be interpreted so as to deny right to carry on Trade and Commerce to any citizen and subjects. The constitutional guarantee is unconditional and unequivocal and must be enforced regardless of shortcomings in the scheme of GST enactment. The right to carry on trade or profession cannot be curtailed contrary to the constitutional guarantee under Art. 19(1)(g) and Article 21 of the Constitution of India. If the person like petitioner is not allowed to revive the registration, the state would suffer loss of revenue and the ultimate goal under GST regime will stand defeated. The petitioner deserves a chance to come back into GST fold and carry on his business in legitimate manner."

11.In criminal law, death sentence has been prescribed for quite a few capital offences. But it has been held that death penalty can be inflicted only in rarest of rare cases. In the world of contract, the State and the State instrumentalities have the power to blacklist an erring contractor. But the Hon'ble Supreme Court in ***Techno Prints vs. Chhattishgarh Textbook Corporation (2025 INSC 236***) held that since an order of blacklisting would put an end to the business of the person concerned, it may be imposed when it is necessary to safeguard the public interest from irresponsible or dishonest contractors. It was further observed that there have to be strong, independent and overwhelming materials to resort to this power given the drastic consequences that an order of blacklisting has on a contractor.

12.The Hon'ble Supreme Court has only been upholding the principle of proportionality in the above cases. The very same approach deserves to be adopted although in a different form while testing orders cancelling a tax payer's registration. The authority must ask himself as to whether registration has to be necessarily cancelled. The authority must explore if there are less harsh measures to deal with the assessee. If this exercise is not undertaken, an order cancelling registration will have to be quashed on the ground of non-application of mind and disproportionality.

13.Thus, viewed from any angle, the impugned order cannot be sustained. It is quashed. The matter is remitted to the file of the respondent. The petitioner is given liberty to file returns. He shall also file his reply to the show cause notice. After holding enquiry, the assessing officer shall pass order afresh on merits and in accordance with law. The writ petitioner's registration stands restored.

14.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

09.09.2025

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No
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Note : Issue order copy on 16.09.2025.

To

The Assistant Commissioner,
Kuzhithurai Assessment Circle,
Commercial Tax Department,
Kuzhithurai.

G.R.SWAMINATHAN, J.

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W.P.(MD)No.24482 of 2025

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