

W.P.No.400 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 11.01.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.400 of 2024
and W.M.P.Nos.440, 443 of 2024

Mr.V.S.K. Traders & Services,
Rep. by its Proprietor,
Door No.3/240C, A one Nagar,
Kangayampalayam,
Sulur, Coimbatore,
Tamil Nadu: 641 402.

... Petitioner

-vs-

The Assistant Commissioner (ST),
Palladam 1 Assessment Circle,
State Tax Office,
Coimbatore.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, call for the records of the impugned order of cancellation of registration vide reference No.ZA330123125884S dated 23.01.2023 with retrospective effect from 31.12.2022 from the files of the respondent herein, quash



W.P.No.400 of 2024

WEB COPY

the same, and further direct the respondent to restore and activate the registration of the petitioner granted under the Central Goods and Services Tax Act, 2017 and the Tamil Nadu Goods and Services Tax Act, 2017 in GSTIN 33CHPPS5470J1ZQ.

For Petitioner : Mr.Aparna Nandakumar

For Respondent : Mr.K.Mohanamurali, SPC

ORDER

The petitioner assails an order of cancellation of registration dated 23.01.2023 with effect from 31.12.2022. The petitioner was a registered person under the GST regime. According to the petitioner, the requisite monthly returns were filed regularly until March 2022. During the Covid-19 pandemic, the petitioner's business was affected and the petitioner did not have any outward supply for a period of about six months. As the petitioner's business started improving after the end of the pandemic, it is stated that the petitioner was



W.P.No.400 of 2024

shocked to be put on notice that the GST registration was cancelled.

WEB COPY The present writ petition arises in the said facts and circumstances.

2. Learned counsel for the petitioner submits that the show cause notice was uploaded on the GST portal, but was not otherwise communicated to the petitioner. Being a small business person, the petitioner was unaware of the posting of the show cause notice on the portal. Therefore, the petitioner could not reply to the show cause notice. By inviting my attention to the impugned order, learned counsel points out that the said order was issued mechanically as is evident from the reference to a reply dated 04.10.2022 in the first line followed by the statement in the second line that no reply was given. She also points out that sub-rule (4) of Rule 22 of the CGST Rules enables the authority to drop the proceedings for cancellation, if appropriate remedial action is taken by the registered person.



W.P.No.400 of 2024

3. By referring to the judgment of the *Bombay High Court in*

Ahmed Enterprises v. Union of India (Ahmed Enterprises) (2023)13

Centax 209 (Bombay), learned counsel submits that, in nearly identical fact situation, the Bombay High Court quashed the order of cancellation, restored the registration and permitted the GST authorities to take further action in accordance with law. She makes a request that a similar order be issued.

4. Mr.K.Mohanamurali, learned SPC, accepts notice on behalf of the respondent. He points out that the GST registration of the petitioner was cancelled in terms of Section 29(2)(b) and (c) of the applicable GST Provisions. Therefore, he submits that no interference is warranted.

5. The question that falls for consideration is whether the petitioner was provided a reasonable opportunity before the drastic order of cancellation of registration was issued. From the show cause notice, it appears that such notice was digitally signed by the



W.P.No.400 of 2024

Goods and Services Tax Network. When the said show cause notice

is read with the impugned order, it is quite evident that the whole process has been undertaken mechanically. As pointed out by learned counsel for the petitioner, lines 1 and 2 of the impugned order are undoubtedly contradictory. Since such impugned order has resulted in great prejudice to the petitioner without the petitioner being provided a reasonable opportunity to respond, the impugned order calls for interference.

6. In the judgment of the Division Bench of the Bombay High Court in *Ahmed Enterprises*, it was held as under in paragraphs 8 to 10:

"8. In the aforesaid circumstances, we have no manner of doubt that this petition would also be required to be disposed of in terms of what has been held by this Court in the decisions as noted above. The petition is accordingly allowed in terms of prayer clause (a), which reads thus;

"(a) issue an appropriate writ, order, or direction, setting aside the Impugned SCN dated



WEB COPY



W.P.No.400 of 2024

14.10.2022 and Impugned Order dated 1.11.2022 passed by Respondent No 2 and directing restoration of Petitioner's GST registration; or

9. The respondents are directed to issue a fresh show cause notice in accordance with law within a period of three weeks from today. The petitioner shall file a reply to the show cause notice within two weeks after receipt of the show cause notice. The designated officer shall thereafter proceed to hear the petitioner and pass appropriate orders in accordance with law.

10. Needless to observe that as the order cancelling registration of the petitioner is quashed and set aside, status-quo ante is to be restored. Accordingly, the registration of the petitioner shall stand restored however subject to the authority of the Department to issue a fresh order in regard to the suspension of the petitioner's registration as the law may permit."

7. In the facts and circumstances outlined above, I am inclined



W.P.No.400 of 2024

to follow the order of the Division Bench of the Bombay High Court.

WEB COPY

8. For reasons set out above, this writ petition is allowed on the following terms:

(i) The order dated 23.01.2023 cancelling the petitioner's GST registration is quashed.

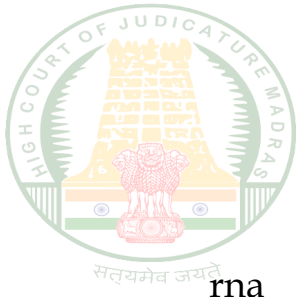
(ii) As a corollary, the respondent is directed to restore the GST registration forthwith.

(iii) It is open to the respondent to issue a fresh show cause notice and take further action in accordance with law after providing a reasonable opportunity to the petitioner. Such show cause notice shall preferably be issued within a period of *fifteen days* from the date of receipt of a copy of this order.

(iv) While re-considering the matter, the respondent shall take note of sub-rule 4 of Rule 22 of the CGST Rules.

(v) There shall be no order as to costs.

(vi) Consequently, W.M.P.Nos.440, 443 of 2024 are closed.



W.P.No.400 of 2024

11.01.2024

rna

WEB COPY

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

Note: Issue Order copy on 12.01.2024

To

The Assistant Commissioner (ST),
Palladam 1 Assessment Circle,
State Tax Office,
Coimbatore.

SENTHILKUMAR RAMAMOORTHY,J

rna

8/9



WEB COPY



W.P.No.400 of 2024

W.P.No.400 of 2024
and W.M.P.Nos.440, 443 of 2024

11.01.2024

