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W.P.No.21497 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.21497 of 2024
& W.M.P.Nos.23466 & 23467 of 2024

M/s.Aziha & Sons,
Rep by its Proprietrix,
SF.No.145 Rathinagiri Main Road,
Rathinagiri 632 517,
Vellore District.

... Petitioner

Vs.

The Commercial Tax Officer,
Arcot Assessment Circle,
Arcot 632 503.

... Respondents

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 of the respondent in his proceedings in Ref.No.ZA330724021459K and quash the order dated 04.07.2024 passed therein and further direct the respondent to restore and activate the registration of the petitioner in GSTIN: 33ELKPM5548G1ZU.



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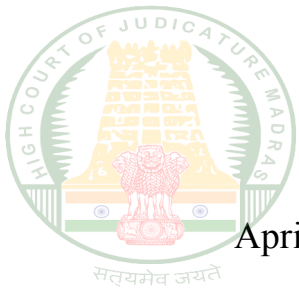
For Petitioner : Mr.P.V.Sudakar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

The challenge in this writ petition is with regard to the order dated 04.07.2024 passed by the respondent, cancelling the GST registration of the petitioner.

2. The learned counsel for the petitioner submitted that, initially due to the medical condition of the petitioner, he was unable to file the monthly returns from October 2023, due to which, the respondent suspended the GST registration of the petitioner vide order of cancellation dated 09.11.2023. Aggrieved over the said order, the petitioner preferred an appeal, which was allowed and the GST Registration was restored on 17.05.2024. Under these circumstances, again a show cause notice dated 21.05.2024 was issued by the respondent stating that no returns were filed for the period from October 2023 to



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April 2024. Though the petitioner had filed his reply along with the proof

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for filing the monthly returns for the said period, the respondent had passed the impugned order, cancelling the GST Registration of the petitioner. Hence, the learned counsel prays for an appropriate order.

3. On the other hand, the learned Additional Government Pleader 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 order. However, he requests this Court to pass appropriate orders.

4. Heard the learned counsel on either side and perused the materials available on record.

5. In the present case, initially, the GST registration of the petitioner was canceled due to non-compliance in filing returns, attributed to the medical condition of the petitioner. Thereafter, a show cause notice dated 21.05.2024 was issued by the respondent stating that no returns were filed for the period from October 2023 to April 2024, for



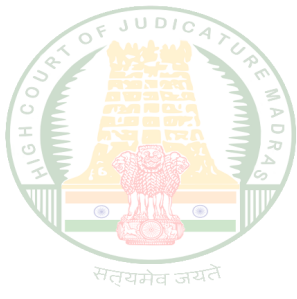
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which, the petitioner had filed his reply along with the proof of filing the monthly returns for the said period. However, without considering the said proofs, the respondent had passed the impugned order, canceling the GST Registration of the petitioner and hence, the same is liable to be set aside.

6. In view of the above, this Court is inclined to revoke the cancellation order passed by the respondent dated 04.07.2024. Accordingly, the cancellation of GST Registration of the petitioner is hereby revoked, subject to the fulfillment of the following conditions:

(i) The respondent 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.

(ii) 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



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of returns within a period of 4 weeks from the date of restoration of GST Registration of the petitioner.

(iii) 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.

(iv) 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.

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

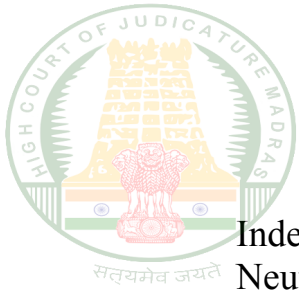
(vi) If any ITC was earned, it shall be allowed to be utilised only after scrutinising and approving by the respondent or any other competent authority.

(vii) If any of the aforesaid conditions is not complied with by the petitioner, the benefit granted under this order will automatically ceased to operate.

7. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

03.09.2024

Speaking/Non-speaking order



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Index : Yes / No

Neutral Citation : Yes / No

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To

The Commercial Tax Officer,
Arcot Assessment Circle,
Arcot 632 503.



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KRISHNAN RAMASAMY.J.,

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