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W.P.No.28339 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.11.2023

CORAM:

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.28339 of 2023

E.Dharmaraj (GSTIN : 33AQRPD0201D1ZO)
No.6A, Madurai Veeran Street
Gangai Nagar, Kallikuppam
Ambattur, Chennai – 600 053.

... Petitioner

-Vs-

The Assistant Commissioner of State Tax,
Ambattur Circle,
3rd Floor Block No.19,
Integrated Commercial Taxes and Registration Department,
South Tower, Government Farm Village,
Nandhanam, Chennai – 600 035.

... Respondent

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India
praying for a Writ of Certiorarified Mandamus to call for the records in the
file of the Order for cancellation of GST Registration issued by the
Respondent in FORM GST REG-19 vide Ref. No.ZA3302230205454



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dated 03.02.2023 and quash the same and direct the respondent to restore

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the GST Registration No.33AQRPD0201D1ZO.

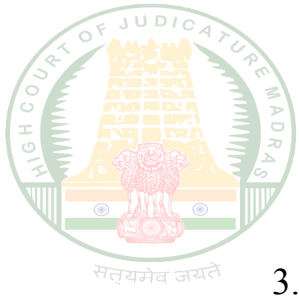
For Petitioner : Ms.Akila.S

For Respondent : Ms.E.Ranganayaki, A.G.P., (Taxes)

ORDER

This Writ Petition has been filed challenging the impugned order of cancellation of GSTIN passed by the respondent dated 03.02.2023.

2.Ms.S.Akila, learned counsel appearing for the petitioner would submit that the petitioner is an illiterate and working as a owner-cum-driver of lorry since the age of 25 years. The petitioner has obtained GST Registration No.33AQRPD0201D1ZO in the month of May 2018 in the trade name of M/s.Selvi Transport. For the purpose of filing GST returns, the petitioner has engaged the services of an auditor and has provided him with all the login credentials pertaining to GST portal.

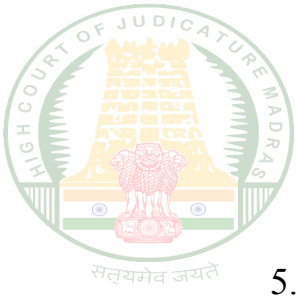


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3.While so, when the petitioner's business is covered under Goods Transport Agency for which the liability for paying GST is on the service recipient under Reverse Charge Mechanism, the auditor engaged by the petitioner has been continuously filing NIL GSTR-1 and GSTR-3B returns instead of showing the actual outwards supplies. Therefore, on the presumption that the petitioner has not commenced any business, the respondent had cancelled the GST registration of the petitioner vide the impugned order dated 03.02.2023.

4.Though the petitioner had been successfully carrying on his transport business and raised an invoice to the tune of Rs.25,03,905/- during the period between June 2023 and October 2023, the said payment has been kept on hold by the client for want of active GSTIN. Only thereafter, it came to the knowledge of the petitioner that the GST registration has been cancelled by virtue of the impugned order dated 03.02.2023. Unless otherwise GST registration is restored, the petitioner is in no position to recover the invoice amount and hence, the petitioner has prayed for setting as the impugned order.



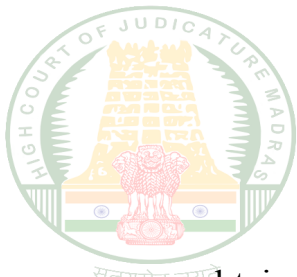
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5. Per contra, Ms.E.Ranganayaki, learned Additional Government Pleader appearing on behalf of the respondent would submit that though the revocation of the GST registration was made in the month of February 2023, the petitioner has raised invoices to the tune of Rs.25,03,905/- during the period between June 2023 and October 2023. She would further submit the petitioner had been filing NIL returns continuously and pursuant to the same, when the GSTIN registration was cancelled by the respondent, the petitioner had also filed GSTR-10 and the same has also been accepted by the department. Hence, learned Additional Government Pleader prayed for dismissal of the writ petition.

6. I have duly considered the submissions made by the learned counsel appearing on behalf of the petitioner and the learned Additional Government Pleader appearing on behalf of the respondent/department.

7. Upon perusal of the documents, it is crystal clear that the GSTIN registration of the petitioner came to be cancelled by virtue of the impugned order. Further, it is an admitted fact that the petitioner is working as a owner-cum-driver of lorry since the age of 25 years and has



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obtained GST Registration No.33AQRPD0201D1ZO in the month of May 2018 in the trade name of M/s.Selvi Transport. For the purpose of filing GST returns, the petitioner has engaged the services of an auditor and has provided him with all the login credentials pertaining to GST portal. However, without taking proper instructions from the petitioner, the auditor has filed NIL GSTR-1 and GSTR-3B returns instead of showing the actual outwards supplies and therefore, on the presumption that the petitioner has not commenced any business, the respondent had cancelled the GST registration of the petitioner. However, without taking steps to restore the cancelled GSTIN, the auditor has filed GSTR-10 and accepted the cancellation.

8. According to the learned Additional Government Pleader appearing on behalf of the respondent, the petitioner having accepted the cancellation by filing GSTR-10 returns, the petitioner was not supposed to have raised invoices for the period between June 2023 to October 2023. It is a common knowledge that no prudent man would have raised invoices after accepting the cancellation by filing GSTR-10 returns. In the instant case on hand, the reason assigned by the petitioner appears to be genuine. Though the



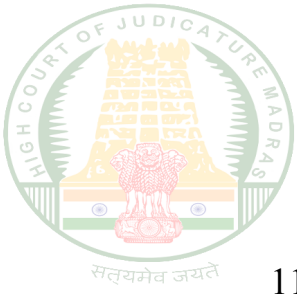
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petitioner has given proper instructions to the auditor, the auditor has filed NIL GSTR-1 and GSTR-3B returns and has also filed GSTR-10 returns after knowing about the cancellation of GSTIN registration standing in the name of the petitioner.

9. Therefore, for all these reasons, this Court is of the considered view that looking at any aspect it appears that the petitioner had only made genuine transactions and the error had been committed only on the part of the auditor who had filed GSTR-10 returns after knowing about the cancellation of GSTIN registration of the petitioner. Hence, the impugned order is liable to be set aside and the GSTIN registration No.33AQRPD0201D1ZO standing in the name of M/s.Selvi Transport is directed to be restored.

10. At this juncture, it is submitted by the learned Additional Government Pleader appearing on behalf of the respondent that the petitioner has to file a formal application for restoration of GSTIN registration No.33AQRPD0201D1ZO.



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11. Considering the submission made by the learned Additional Government Pleader, the petitioner is directed to file an application for restoration of GSTIN registration within a period of one week from the date of receipt of a copy of this order and the respondent shall revoke the cancellation of GSTIN registration No.33AQRPD0201D1ZO within a period of two weeks thereafter.

12. The Writ Petition is disposed of accordingly. No costs.

For reporting compliance, list the matter on **21.12.2023**.

17.11.2023

Neutral Citation : Yes/No

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Internet : Yes/No

Index : Yes/No

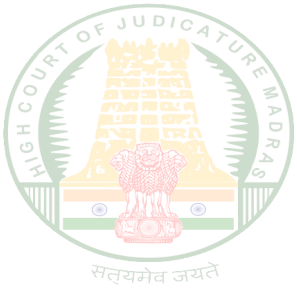
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Note : Issue order copy on 20.11.2023

To

The Assistant Commissioner of State Tax,
Ambattur Circle,
3rd Floor Block No.19,
Integrated Commercial Taxes and Registration Department,
South Tower, Government Farm Village,
Nandhanam, Chennai – 600 035.

KRISHNAN RAMASAMY, J.



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