
[2024] 163 taxmann.com 733 (Andhra Pradesh)[27-03-2024]

GST : GST registration cancellation without opportunity for personal hearing set aside; authority directed to reconsider assessee's representation for registration restoration

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[2024] 163 taxmann.com 733 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

VSV Info (P.) Ltd.

v.

Assistant Commissioner, State Tax*

G. NARENDAR AND HARINATH. N, JJ.

WRIT PETITION NO. 7592 OF 2024

MARCH 27, 2024

Registration - Cancellation of - Natural Justice - Assessee's GST registration cancelled for non-filing of returns for six months - Cancellation order passed without granting opportunity for personal hearing - HELD: Writ petition disposed off - Impugned cancellation order set aside - Respondents directed to consider assessee's reply/representation seeking restoration of GST registration within two weeks of receipt - Principles of natural justice not followed before passing impugned order [Section 29(2) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Paras 8, 9, 10 and 11] [In favour of assessee]

Anil Kumar Bezawada *for the Petitioner.*

ORDER

Harinath.N, J.- The petitioner is aggrieved by the order of cancellation of GST registration dated 25.02.2023 issued by the 1st respondent *vide* reference No.ZA370223041229R without granting an opportunity for personal hearing.

2. The petitioner is the business of software publishing, consultancy and supply of software. The petitioner applied and obtained GST registration at Auto Nagar, Vijayawada - 2 Circle *vide* registration No.37AAFCV4976Q1Z9.

3. It is submitted that the petitioner could not do any business during the Covid-19 pandemic and was submitting nil GST returns for the period May, 2019 till June, 2022. It is stated that, the Accountant of the petitioner discontinued his service with the petitioner, thus the petitioner was unable to file monthly GSTR-1 and 3-B returns.

4. The 1st respondent issued show cause notice dated 02.02.2023 proposing to cancel the GST registration as monthly returns were not filed for a period of six months. It is submitted that even before the passing of final order and even before the petitioner could submit his reply, the show cause notice indicated that the registration of the petitioner stood suspended with effect from 02.02.2023.

5. The learned counsel for the petitioner submits that on account of suspension of the GST registration with effect from the date of issuance of the show cause notice, the petitioner was unable to access the portal for submitting the returns.

6. The impugned order dated 25.02.2023 would indicate that no reply to the show cause notice was submitted. The effective date of cancellation of registration as 30.06.2022. The learned counsel for the petitioner submits that the effective date of cancellation is antedated by eight months.
7. The learned Government Pleader for Commercial Tax submits that there is no infirmity in the impugned order. As per Section 29(2) of GST Act, 2017, the non-compliance of the statutory requirement in filing of monthly GSTR-1 returns and 3-B returns would lead to suspension of the registration and the subsequent order of cancellation of registration.
8. Considering the submissions of the learned counsel appearing for the parties and Section 29(2) of the GST Act, 2017 does not confer blanket powers to the proper officer to cancel the registration without giving an opportunity of being heard.
9. The impugned order is certainly passed in contravention of Section 29(2) of the GST Act, 2017 to the extent of passing the same without giving of an opportunity of being heard.
10. Considering the orders passed by this Court in similarly placed matters the principles of natural justice have not been followed by the respondents before passing the impugned order. The impugned order dated 25.02.2023 is hereby set aside.
11. In our considered opinion, ends of Justice would be met if the writ petition is disposed off with a direction to the respondents to consider the reply/representation of the petitioner seeking restoration of the GST registration within a period of two weeks from the date of receipt of such reply/representation of the petitioner.
12. In the result, the writ petition is disposed off without costs.
13. Pending miscellaneous petitions, if any, shall stand closed.

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*In favour of assessee.