

GIB/TN/RAMAKRISHNAN/30.04.2021/HC-201

High Court Category : CANCELLATION OF REGISTRATION

State : Tamil Nadu

Order No.: GIB/TN/RAMAKRISHNAN/30.04.2021/HC-201

Name of Entry :
RAMAKRISHNAN MAHALINGAM

Date : 30-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the appeal of the petitioner has been rejected on the ground that the Input Tax Credit (ITC) availed for various periods was ineligible. The appellate authority has instructed the petitioner to remit the amount due in order to have the appeal admitted.

A show cause notice was issued by the first respondent assessing officer on 22.07.2019 calling upon the petitioner to show cause why the registration not be cancelled, since the petitioner had not filed returns for a continuous period of six months.

Two applications have been filed by the petitioner under Section 30, the first one rejected by an order dated 24.07.2020 referring to non-compliance of the petitioner to notice issued by the assessing officer, and the second dated 09.09.2020, rejected on 12.09.2020, referring to outstanding interest on belated payment of tax dues and for allegedly wrongful claim of ITC. As against order dated 24.09.2020, the petitioner filed an appeal before R2, who has issued the deficiency memo, challenged in this writ petition.

Decision of Advance Ruling Authority :

DECISION:

The contention of the respondents herein that the revival of registration is conditional upon the petitioner satisfying tax dues and substantiating its claim of ITC is misconceived. What is sought for by the petitioner is revocation/revival of registration only, and in the guise of considering the application for revocation, the authorities cannot embark upon the process of assessment - An assessment would have to be made by the authority in terms of Section 73 or other applicable provision after following the procedure set out therein, and it is only in the course thereof that the officer may consider and decide questions of levability of tax and claim of input tax credit.

Thus to state that registration will not be revived since the petitioner has incorrectly availed of ITC would be putting the cart before the horse. In fact, it is seen that the petitioner has filed monthly returns as well as annual returns for the periods January 2017-18 to September 2019-20 and for financial years 2017-18 and 2018-19 and has also remitted late fee for filing of belated returns. Thus, and these being the only conditions that are to be satisfied by the petitioner for grant of revocation of registration, the cancellation of the registration in this case is incorrect and improper.

Petition allowed.