(2020) 09 DEL CK 0174

In the Delhi High Court

Case No : Civil Writ Petition No. 4321 Of 2020

Mahadev Traders APPELLANT

Vs

Union Of India & Ors RESPONDENT

Date of Decision : 25-09-2020

Acts Referred:

Citation : (2020) 09 DEL CK 0174

Hon'ble Judges : Manmohan, J;Sanjeev Narula, J

Bench : Division Bench

Advocate : Vineet Bhatia, Chanderkant Singh, Abhay Prakash Sahay, Indira Goswami, Mannu Singh, Harpreet Singh

Final Decision : Disposed Of

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.

2. On 30th July, 2020 the present writ petition was listed for hearing for the first time. On the said date this Court had passed the following order:

"The petition has been heard by way of video conferencing. Present writ petition has been filed seeking a direction to the respondents to restore the registration certificate of the petitioner in accordance with the order dated 15th June, 2020 passed by the Appellate Authority as well as to permit the petitioner to file all its pending returns without any interest or late fees.

Learned counsel for petitioner states that the staff of the Tax Consultant of the petitioner inadvertently applied on 06th November, 2018 for cancellation of registration of the petitioner instead of another firm M/s Mahakal Traders of which the petitioner?s wife is the proprietor. He states that as the petitioner was not able to withdraw the application for cancellation of registration certificate on the common portal, it wrote a letter dated 19th February, 2019 to the Proper Officer for withdrawal of application for cancellation of registration.

He, however, states that after a lapse of more than a year, the petitioner?s registration certificate was cancelled during lock-down vide ex parte order dated 08th April, 2020 with retrospective effect from 06th November, 2018.

He points out that upon an appeal being filed by the petitioner, the Appellate Authority vide order dated 15th June, 2020 set aside the cancellation of petitioner?s registration and allowed its restoration. However, on 01st July, 2020 petitioner received a letter from the Proper Officer stating that it is not possible to revoke or restore the petitioner?s registration as the common portal does not permit the Proper Officer to do so.

Learned counsel for the petitioner states that till date the petitioner has been filing its returns and paying its taxes. He states that if the registration certificate of the petitioner is cancelled w.e.f. 06th November, 2018, all the buyers who have made purchases from the petitioner would be denied the use of input tax credit leading to a lot of chaos and confusion.

Mr.Dhananjaya Mishra, learned counsel for respondent nos.2 & 3, on instructions, states that respondent nos.2 & 3 do not wish to challenge the order of the Appellate Authority in petitioner? favour. He admits that the petitioner has a bonafide case.

Mr.Harpreet Singh, learned counsel for respondent no.4 states that the functionality of restoration is at the stage of ?User Acceptance/Testing? and will be incorporated on the common portal within fifteen days. Consequently, according to him, after fifteen days, respondents 2 & 3 would be in a position to restore the petitioner?s registration.

In the interest of justice, re-notify on 18th August, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

3. On 18th August, 2020 this Court had passed the following order:

"The petition has been heard by way of video conferencing. Mr.Harpreet Singh, learned counsel for respondent no.4 states that the petitioner?s registration, for the time being, has been restored prospectively. He assures this Court that the functionality of restoration with retrospective effect is being developed and shall be incorporated on the common portal on or before 07th September, 2020.

At the request of Mr.Harpreet Singh, re-notify on 10th September, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail."

4. On 10th September this Court had passed the following order:-

"The petition has been heard by way of video conferencing.

Today, once again, Mr. Harpreet Singh, learned counsel for respondent No. 4

seeks extension of time to incorporate the functionality of restoration with retrospective effect on the common portal. He states that the said functionality shall be incorporated on or before 20th September, 2020.

At the request of learned counsel for the respondent, adjourned to 25th September, 2020.

In the event the said functionality is not incorporated on the common portal on or before the next date of hearing, the CEO, GSTN shall appear before this Court through web link.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail."

5. Today, Mr. Harpreet Singh, learned senior standing counsel states that petitioner's registration has been restored retrospectively w.e.f. 06th November, 2018 in accordance with the Appellate Authority's order dated 15th June, 2020.

6. Accordingly, the present writ petition is disposed of as satisfied.

7. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

