IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 19-04-2022

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.6150 of 2022
and W.M.P.Nos.6217 and 6218 of 2022

Tvl. Ram International
Represented by its Proprietor Mr.R.Ramanand
16, Krishnaji Shukul Street,
Venkatapuram, Ambattur,
Chennai - 53. ...... Petitioner

-vs-

1. The State Tax Officer
O/o. the Deputy Commissioner (ST)
Intelligence - II, PAPJM Buildings,
Second Floor, Greams Road,
Chennai - 600 006.

2. The Deputy Commissioner
Ambattur Range I,
R-40, A-1, 100 Feet Road,
Mogappair East,
Chennai - 37. ..... Respondents

Prayer : Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the respondent proceedings in Reference Number : ZA330122269496K, dated 27.01.2022 and the consequential revocation cancellation order in Reference Number : ZA330322018595T, dated 04.03.2022, quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the law.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

The prayer sought for in this writ petition is for a writ of certiorari, calling for the records of the respondent proceedings in Reference Number : ZA330122269496K, dated

27.01.2022 and the consequential revocation cancellation order in Reference Number : ZA330322018595T, dated 04.03.2022 and quash the same.

2. The petitioner is a dealer under the GST regime. For the alleged non-filing of the return, the registration of the petitioner under GST has been cancelled by the proceedings of the respondent, dated 07.01.2022. Challenging the same, the present writ petition has been filed.

3. Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner as well as Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondents.

4. The issue raised in this writ petition has already been dealt with by a detailed judgment of this Court in a batch of cases in the matter of Tvl.Suguna Cutpiece Center Vs. The Appellate Deputy Commissioner (ST) (GST), Salem and others in W.P.No.25048 of 2021 etc. batch, by a learned Judge of this Court, dated 31.01.2022, where the learned Judge has passed the following order :

> "229. In the light of the above discussion, these Writ Petitions are allowed subject to the following conditions:-
>
> i. The petitioners are directed to file their returns for the period prior to the cancellation of registration, if such returns have not been already filed, together with tax defaulted which has not been paid prior to cancellation along with interest for such belated payment of tax and fine and fee fixed for belated filing of returns for the defaulted period under the provisions of the Act, within a period of forty five (45) days from the date of receipt of a copy of this order, if it has not been already paid.
>
> ii. It is made clear that such payment of Tax, Interest, fine / fee and etc. shall not be allowed to be made or adjusted from and out of any Input Tax Credit which may be lying unutilized or unclaimed in the hands of these petitioners.
>
> iii. If any Input Tax Credit has remained utilized, it shall not be utilised until it is scrutinized and approved by an appropriate or a competent officer of the Department.
>
> iv. Only such approved Input Tax Credit shall be allowed for being utilized thereafter for discharging future tax liability under the Act and Rule.

v. The petitioners shall also pay GST and file the returns for the period subsequent to the cancellation of the registration by declaring the correct value of supplies and payment of GST shall also be in cash.

vi. If any Input Tax Credit was earned, it shall be allowed to be utilised only after scrutinising and approving by the respondents or any other competent authority.

vii. The respondents may also impose such restrictions / limitation on petitioners as may be warranted to ensure that there is no undue passing of Input Tax Credit pending such exercise and to ensure that there is no violation or an attempt to do bill trading by taking advantage of this order.

viii. On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.

ix. The respondents shall take suitable steps by instructing GST Network, New Delhi to make suitable changes in the architecture of the GST Web portal to allow these petitioners to file their returns and to pay the tax/penalty/fine.

x. The above exercise shall be carried out by the respondents within a period of thirty (30) days from the date of receipt of a copy of this order.

xi. No cost.

xii.Consequently, connected Miscellaneous Petitions are closed."

5. The present case also can be fit in under the said category, where what are all the direction given by the learned Judge in the cited case in Tvl.Suguna Cutpiece Center, can be applied to the present case and therefore, the said benefit can be extended to the present petitioner also.

6. In that view of the matter, this writ petition is also disposed of, in terms of the above direction given by the learned Judge in the said case in para 229 as has been quoted herein above.

7. Accordingly, this writ petition is ordered. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

tsvn
To
1. The State Tax Officer
O/o. the Deputy Commissioner (ST)
Intelligence - II, PAPJM Buildings,
Second Floor, Greams Road,
Chennai - 600 006.

2. The Deputy Commissioner
Ambattur Range I,
R-40, A-1, 100 Feet Road,
Mogappair East,
Chennai - 37.

+1 cc to Mr.D.Vijayakumar, Advocate Sr.NO. 26632
+1 cc to Government Pleader Sr.NO. 26983

W.P.No.6150 of 2022

AD(CO)
A.SK(21/04/2022)