IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.9083 OF 2022

Enteleia Solutions Pvt Ltd.,
Represented herein by its Director and
authorised signatory Mr.B.Goutham,
Flat B, Wellworth Residency,
Dr subbarayan 7th Street, Kodambakkam
Chennai - 600 024.

Registered Office at:
2nd Floor, No:3/1,
3rd Cross Street, Gangaiya Avenue,
Ramapuram, Chennai - 600 089.

... Petitioner

Vs

1. The Assistant Commissioner (Circle)
   Nandambakkam, Zone - IX,
   Chennai East, Tamilnadu.

2. The Deputy Commissioner (ST),
   GST-Appeal, Chennai-II,
   C.T. Annexe Building, 3rd Floor,
   No.1, Greams Road,
   Chennai - 600 006.

... Respondents

Prayer :

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified mandamus to call for the records on the file of the 2nd respondent with regard to the 2nd impugned order passed in Rc.No.820/2021/A1 dated 06/07/2021 and to quash the same as illegal, arbitrary and unconstitutional and consequently to direct the respondents to immediately restore the petitioner's GST Registration vide GSTIN NO.33AAECE4069JIZL, so as to enable the petitioner to file returns.

For Petitioner : Mr.S.Prabhu

For Respondents : Mr.R.Siddharth
Government Advocate

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus to call for the records on the file of the 2nd respondent with regard to the impugned order passed in RC.No.820/2021/A1 dated 06.07.2021 and to quash the same as illegal, arbitrary and unconstitutional and consequently to direct the respondents to immediately restore the petitioner's GST Registration vide GSTIN No.:33AAECE4069JIZI so as to enable the petitioner to file returns.

2. The petitioner was a dealer under GST regime and his registration under the GST Act has been cancelled by the order dated 06.07.2021, challenging the same, the present writ petition has been filed.

3. With regard to the cancellation of registration under GST Act, appeal can very well be filed by the petitioner before the Appellate Authority within a time frame. However, due to Covid-19 situation within the time stipulated under the GST Act, no appeal seems to have been filed by the petitioner against the impugned order.

4. Similar circumstances in various cases, which were confronted by a learned Judge of this Court had been considered 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 dated 31.01.2022.

5. In the said order, a learned Judge of this Court 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."

6. I have heard the learned counsel for the petitioner and Mr.R.Siddharth, learned Government Advocate appearing for the respondents.

7. Since the petitioner also is similarly placed, I am of the view that, the same relief, as has been granted in the said

batch of cases in the case of Suguna Cutpiece Center referred to above, can be extended to the petitioner also, accordingly, the following orders are passed:

(i) The petitioner is directed to file his 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 this petitioner.

(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 petitioner 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 petitioner 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 this petitioner to file his 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.

8. With these directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Assistant Commissioner (Circle)
   Nandambakkam, Zone - IX,
   Chennai East, Tamilnadu.

2. The Deputy Commissioner (ST),
   GST-Appeal, Chennai-II,
   C.T. Annexe Building, 3rd Floor,
   No.1, Greams Road, Chennai - 600 006.

+1cc to Mr.S.Prabhu, Advocate, S.R.No.25419
+1cc to the Special Government Pleader (Taxes), S.R.No.26637

W.P.No.9083 of 2022

SKM(CO)
PM/01/07/2022