IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.9581 of 2022

Master Mind Agency,
Represented by its
Managing Partner
Narayanan …. Petitioner

-Vs-

The Appellate Authority of GST,
Appeals-II,
Chennai North,
Greams Road,
Chennai. …. Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to number the petitioner's online appeal petition dated 24.03.2022 acknowledged in AD330322047020Y by receiving the hard copy of the same and consequently dispose the same on merits.

For Petitioner	:	Mr.D.R.Arunkumar
For Respondent	:	Mr.R.Siddharth, Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondent to number the petitioner's online appeal petition dated 24.03.2022 acknowledged in AD330322047020Y by receiving the hard copy of the same and consequently dispose the same on merits.

2. The petitioner is a dealer under GST Regime that is State GST with the respondent.

3. Due to non-filing of return, the registration certificate of the petitioner under the GST Act has been canceled by the orders of the respondent dated 05.09.2019. Challenging the same, the present Writ Petition has been filed.

4. Heard the learned counsel for the petitioner who would submit that, as against the impugned order of cancellation of registration certificate dated 18.09.2019 though the petitioner had filed an appeal, it was not entertained by the Appellate Authority and therefore, he has approached this Court.

5. Heard Mr.R.Siddharth, learned Government Advocate appearing for the respondent who would submit that in similar circumstances, a batch of Writ Petitions have been heard and an exhaustive order has been passed by this Court in W.P.No.25048 of 2021 etc., batch of cases in the matter of "Suguna Cutpiece Centre -Vs- The Appellate Deputy Commissioner (ST)(GST) and Another" by order dated 21.10.2022, where a set of directions has been given and the same benefit can be extended to this petitioner also.

6. I have considered the submissions of the learned counsel appearing for either side and have perused the materials placed on record.

7. In similar circumstances, a learned Judge of this Court, in a batch of cases in W.P.No.25048 of 2021 etc., in the matter of "Suguna Cutpiece Centre -Vs- The Appellate Deputy Commissioner (ST)(GST) and Another" has passed the following order on 21.10.2022.

> "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."

8. Since the petitioner is also similarly placed, the directions given in the said order can be extended to the present petitioner also. Accordingly, this Writ Petition is disposed of on the same terms of the said order, especially in Paragraph 229 referred to above.

7. Accordingly, this Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Anu/KST

To

The Appellate Authority of GST,
Appeals-II,
Chennai North,
Greams Road,
Chennai.

+1 cc to Mr.D.R.Arun Kumar, Advocate Sr.NO. 26946
+1 cc to Special Government Pleader Sr.NO.27405

W.P.No.9581 of 2022

sr(CO)
A.SK(26/05/2022)