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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.9905 of 2022

and

W.M.P.Nos.9619 & 9621 of 2022

M/s.Maaruthi Foundations Private Limited,
Represented by its Director,
1, F4, 8th Cross Street, Dhandeeswaran Nagar,
Velachery, Chennai-600 042.

...Petitioner

-Vs-

1. Deputy Commissioner (ST) (FAC),
GST-APPEAL, Chennai-II,
C.T.Annexe Building, 3rd Floor,
No.1, Greaves Road,
Chennai-600 006.

2. Assistant Commissioner (Circle)
Velacherry:Zone-VIII Tamilnadu

...Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records pertaining to the order issued in Memorandum in RC No.63/2002/A1 dated 02.03.2022 by the 1st respondent and consequently the order for cancellation of Registration dated 20.12.2018 issued by 2nd respondent and quash the same.

For Petitioner : M/s.V.Pramila

For Respondents : Mr.V.Prasanth Kiran,
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Certiorari calling for the records pertaining to the order issued in Memorandum in RC No.63/2002/A1 dated 02.03.2022 by the 1st respondent and consequently the order for cancellation of Registration dated 20.12.2018 issued by 2nd respondent and quash the same.



2. The petitioner was a dealer under the GST Act, 2017. Due to the alleged reasons that, continuously for six months or more, the petitioner has not filed return, the registration of the petitioner under the GST Act was canceled by the order of the respondent dated 08.12.2018.

3. As against the said order, when appeal was filed before the Appellate Authority, the same also was rejected by the order of the Appellate Authority dated 02.03.2022. Challenging both these orders, the present Writ Petition has been filed.

4. The issue raised in this Writ Petition has already been considered in a batch of cases by a learned Judge of this Court in W.P.No.25048 of 2021 and etc., batch in the matter of "Suguna Cutpiece Centre -Vs- The Appellate Deputy Commissioner (ST) (GST) and Another" by order dated 31.01.2022.

5. In the said order, a learned Judge has given a set of directions to follow.

6. Following the said order, similar Writ Petition as that of the present one having been considered was disposed of by this Court and in one such order in the matter of "Tvl.Ram International Vs. The State Tax Officer" in W.P.No.6150 of 2022, recently I had an occasion to pass an order on 19th April 2022, which reads thus:

"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



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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.



above both in Suguna Cutpiece Centre as well as Tvl.Ram International case cited supra, this Court is inclined to dispose of this Writ Petition with the following orders:

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"That this Writ Petition is ordered on the same term mentioned in Paragraph 229 of the order of Suguna Cutpiece Centre cited supra and accordingly, this Writ Petition is ordered. No Costs. Consequently, connected miscellaneous petitions are closed."

s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

Anu/Sgl

To

1. The Deputy Commissioner (ST) (FAC),
GST-APPEAL, Chennai-II,
C.T.Annexe Building, 3rd Floor,
No.1, Greams Road,
Chennai-600 006.
2. The Assistant Commissioner (Circle)
Velacherry:Zone-VIII Tamilnadu

+1 CC to M/s.V. Pramila, Advocate sr 27933

+1 CC to The Special Government Pleader sr 28425.

W.P.No.9905 of 2022

JPL (CO)
SP (04/05/2022)