IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.10877 of 2022
and
W.M.P.No.10490 of 2022

M/s.Jade Resorts Private Limited,
Rep.by its Manager – Operations Mr.D.Sathish,
107, ECR Road, Vadanenmeli Village,
Tamil Nadu – 603 104. ... Petitioner

Vs

The Superintendent, GST & Central Excise,
Kelambakkam Range,
Thirukazhukundram. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, directing the respondent to produce the record in Ref.No.ZA3302200007179 and quash the order dated 01.02.2020 passed therein and further direct the respondent to revive the petitioner's registration in GSTIN/UIN;33AAACJ2638L1ZL.

For Petitioner : Mr.B.Raveendran

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, directing the respondent to produce the record in Ref.No.ZA3302200007179 and quash the order dated 01.02.2020 passed therein and to direct the respondent to revive the petitioner's registration in GSTIN/UIN;33AAACJ2638L1ZL.

2. The petitioner was a dealer under GST Regime. Due to the alleged non-filing of the return for a longer period, the registration of the petitioner under the GST Act was cancelled by order of the Revenue dated 04.12.2019.

3. Challenging the said order dated 04.12.2019, the present writ petition has been filed. The issue raised in this writ petition has already been considered in a batch of writ petitions in W.P.No.25048 of 2021 in the matter of ***Tvl.Suguna Cutpiece Center, Salem Vs. The Appellate Deputy Commissioner (ST)(GST), Salem and Erode & another****,* where, a learned Judge of this Court passed a detailed order ***dated 31.01.2022***, giving certain directions, disposing those writ petitions in Paragraph 229 of the said order.

4. Following the said order, I had occasions to consider similar writ petitions. One such writ petition was disposed of this Court on ***23.02.2022 in W.P.No.3446 of 2022*** in the matter of ***Sri Vupputur Alwar Chetty's Charities, Represented by its Hereditary Trustee, Mr.Vupputur Swaroop Vs. The Assistant Commissioner (ST)***, where, I have passed the following orders:

> *"8. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials on records.*
>
> *9. Since the issue raised in this writ petition has already been considered in the exhaustive Judgment of the learned Judge referred above in the matter of Tvl.Suguna Cutpiece Center's case, where in the operative portion of the order, in para 229, the learned Judge has given a set of directions allowing the writ petitions which are reproduced hereunder for easy reference:*
>
> *"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."

10. Having gone through the same, I am of the view that, this writ petition also can be ordered, of course on the same terms referred to above in para 229 of the Judgment, dated 31.01.2022 in the Tvl.Suguna Cutpiece Centre's case.

11. Accordingly, this writ petition is disposed of in the same terms by allowing the petition to prefer an appeal, of *course by strictly following the conditions imposed thereon in para 229 of the Judgment. No costs."*

5. In view of the said orders having been passed, since the petitioner is also a similarly placed person to that of the other petitioners referred to above, the same relief can be extended to the petitioner also.

6. Accordingly, this writ petition is ordered on the same terms mentioned in Paragraph 229 of the ***Tvl.Suguna Cutpiece Center judgment*** referred to above in terms of the other order in ***Sri Vupputur Alwar Chetty's Charities case (cited supra)***.

7. Accordingly, this writ petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2022

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Index : Yes / No
Speaking order : Yes / No

To

The Superintendent, GST & Central Excise,
Kelambakkam Range,
Thirukazhukundram.

R. SURESH KUMAR, J.

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