



W.P(MD).No.26319 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.26319 of 2022

and

W.M.P(MD)No.20489 of 2022

M/s.Bright Asset Transit Private Limited,
GSTN 33AAECB5364P1ZC,
Represented by its Managing Director,
Choolikkat Mani Sudhin,
2-24/2, Ammankoil Street, Trivandrum Nallur Village,
Vilavancode Taluk,
Marthandam-629165.

... Petitioner

Vs.

The Assistant Commissioner (Circle),
Kuzhithurai Assessment Circle,
Commercial Taxes Buildings,
Kuzhithurai.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the Respondent in Reference No.ZA330422075318O, dated 20.04.2022 and to quash the same as illegal, arbitrary and direct the Respondents to revoke the cancellation of Petitioner's GSTN Registration No. 33AAECB5364P1ZC within such time as may be directed by this Court.

For Petitioner : Mr.N.Sudalaimuthu
For Respondent : Mr.T.Amjad Khan
Government Advocate



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ORDER

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This writ petition has been filed challenging the order of cancellation of the Registration Certificate on the premise that the Petitioner has failed to file Goods and Services Tax monthly returns for a continuous period of six months. Consequently, the Registration Certificate was cancelled with effect from 01.04.2022 in view of Section 29 of the Central Goods and Services Tax Act.

2. It is submitted by the learned counsel for the Petitioner that the Petitioner was unaware of the cancellation of the Registration Certificate, as he was diagnosed with Hernia and had to undergo treatment and was in bed rest for several months. The business was carried on by the staff of the petitioner's concern and only a part-time Accountant was taking care of the statutory compliances including filing of GST returns. It was only on being informed by the other end tax payers that the petitioner became aware that his GSTN registration stood cancelled. Due to above reasons, the Petitioner was not able to file an appeal in time as stipulated under the Act against the cancellation of the registration.



3. It is submitted by the learned counsel for the petitioner that in identical circumstances, this Court, in the case of ***Tvl.Suguna Cutpiece Vs Appellate Deputy Commissioner (ST) (GST) and others (W.P.Nos.25048, 25877, 12738 of 2021 etc... batch)***, dated 31.01.2022, issued the following directions:

“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.



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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."*

The same has been consistently thereafter followed by this Court in various decisions, viz.,



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a) *M/s. Maaruthi Foundations Private Limited Vs Deputy Commissioner (ST) (FAC)*, reported in 2022 (5) TMI 405

b) *J. Jayakrishnan Vs The Additional Chief Secretary/Commissioner of Commercial Taxes, Chennai* reported in 2022 (7) TMI 1226

c) *TVL. Jeyalakshmi Store represented by its Proprietor, Sivanu Pandian Vs Commissioner of Commercial Taxes* reported in 2022 (7) TMI 1275

d) *M/s. Pearl and Company Vs The Commissioner of Commercial Taxes* in W.P(MD)No.19127 of 2022.

4. It is also submitted by the learned Standing Counsel for the Respondents that it is not open to the appellate authority to pass any orders disregarding the limitations prescribed therein, thus, we cannot find fault with the rejection of the appeal filed by the petitioner inasmuch as admittedly, it is beyond the period of limitation.

5. In view of the same, this Court feels that the benefit extended by this Court in the earlier orders referred to above in *Suguna Cutpiece Centre's* case cited supra, may be extended to the Petitioner.



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6. This writ petition is ordered on the same term mentioned in paragraph 229 of the order of *Suguna Cutpiece Centre* extracted supra and accordingly, this writ petition is ordered. No costs. Consequently, connected miscellaneous petition is closed.

22.11.2022

Index : Yes / No
Internet : Yes/ No
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To

The Assistant Commissioner (Circle),
Kuzhithurai Assessment Circle,
Commercial Taxes Buildings,
Kuzhithurai.



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MOHAMMED SHAFFIQ, J.

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