BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.6460 of 2023

M/s.R.M.H.Engineering,
GSTN 33CZOPP6934P1ZE,
Rep., by its Authorised Representative,
C.R.Raja,
178/84, New Ramnad Road,
Kamarajar Salai, Madurai. .. Petitioner

Vs.

The Assistant Commissioner (Circle),
Kamarajar Salai Assessment Circle,
Commercial Taxes Buildings,
Madurai. .. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in Reference Number:ZA330522024069W, dated 06.05.2022 and to quash the same as illegal and arbitrary and direct the respondent to revoke the cancellation of the petitioner's GSTN registration No.33CZOPP6934P1ZE within the time as may be stipulated by this Court.

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.D.Ghandiraj
Special Government Pleader

ORDER

This writ petition has been filed to quash the order of the respondent dated 06.05.2022 cancelling the registration of the petitioner and direct the respondent to revoke the cancellation of GSTN registration and restore the same.

2. The case of the petitioner is that they have been engaged in the business of executing electrical works contract in the Corporation of Madurai. They used to purchase materials from both registered and unregistered dealers. They have enrolled under the Tamil Nadu Goods and Services Tax Act, 2017 in GSTIN: GSTN 33CZOPP6934P1ZE. They have been regular in uploading the monthly returns in GSTR-3B within the due dates and have also paid the GST on time. They have also filed GSTR-1 returns within the due time. The returns were filed through GST portal online. Since the petitioner is not being proficiency in

accounts and GST matters, they were solely depending upon their part time Accountant to upload these details/forms. While so, the petitioner was informed that the GST Registration has been cancelled and therefore, they were not able to take the Input Tax Credit on the amount disbursed to them. The petitioner, on verification, came to know that the part time Accountant had not filed GST monthly returns and the GST Registration was cancelled with effect from 06.05.2022. Therefore, the petitioner Company left with no other alternative, has approached this Court, since the respondent is not willing to restore the GST Registration.

3. It is submitted by the learned counsel for the petitioner that due to the carelessness of the petitioner's part time Accountant, the GST monthly returns were not filed. Subsequently, the monthly returns until April, 2022 were filed belatedly with late fee. Due to the above reasons, the petitioner was not able to file an appeal in time as stipulated under the Tamil Nadu Goods and Service Tax Act against the cancellation of the registration.

4. In identical circumstances, this Court, in the case of Tvl.Suguna Cutpiece Vs The 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.

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.,

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;*** and

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

5. In view of the fact that this Court has been consistently following the directions issued 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) and the Revenue Department has also accepted the said view as evident from the fact that no appeal has been filed in any of the matters, this Court intends to follow the above order of this Court.

6. 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.

7. This Writ Petition is allowed on the same terms mentioned in paragraph 229 of the order of ***Suguna Cutpiece Centre*** (cited *supra)*. No costs.

27.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
abr
To

The Assistant Commissioner (Circle),
Kamarajar Salai Assessment Circle,
Commercial Taxes Buildings, Madurai.

P.T.ASHA, J.

abr

W.P.(MD) No.6460 of 2023

Dated: 27.03.2023