IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.2486 of 2024
and W.M.P.Nos.2717 & 2718 of 2024

Priyadharshini
Rep. by its Proprietrix, M/s. GK Traders,
Having business at , D.No.51, Mahalakshmi Nagar, Near
Government Society Bank, Samathur,
Pollachi, Coimbatore 642 123. ... Petitioner

-vs-

1.The Additional Chief Secretary/
Commissioner of Commercial Taxes,
No. 5 Kamaraj Salai , Chepauk, Chennai 05 .

2.The Appellate Deputy Commissioner (ST),
Goods And Service Tax Coimbatore

3.The Appellate Deputy Commissioner (ST)
Goods and Service Tax Coimbatore

4.The Commercial Tax Officer
Office of Commercial Tax Office,
Pollachi (Rural), Pollachi,
Coimbatore. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of impugned order in Reference No.ZA3306230710207 dated 15.06.2023 on the file of the 3rd respondent and direction to the 3rd respondent to revocation of cancellation of GST registration of the petitioner.

For Petitioner : Mr.K.Prabhakaran

For Respondents : Mr.TNC.Kaushik, AGP (T)

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ORDER

The petitioner challenges an order of cancellation of registration dated 15.06.2023 and seeks revocation thereof.

2. By asserting that the petitioner was in the business of supplying construction materials and could not file returns from May 2023 on account of ill-health, the present writ petition is filed.

3. Learned counsel for the petitioner submits that the petitioner endeavoured to file GST returns and presented an appeal against the cancellation of registration in November 2023, but the appeal was not received on the ground of limitation. By placing reliance on an earlier order of this Court in *Marimuthu Venkateshwaran v. The Commissioner 2022 LiveLaw (Mad) 494*, learned counsel submits that a similar order be passed in this case.

4. Mr.TNC.Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the order issued in *Suguna Cutpiece v. The Appellate Deputy Commissioner (ST) (GST) and others (W.P.Nos.25048, 25877, 12738 of 2021 etc., batch) dated 31.01.2022 (Suguna Cutpiece),* was a conditional order and that the petitioner should be directed to comply with all conditions stipulated therein.

5. In view of the said submissions, it is not necessary to adjudicate this matter on merits. Instead, by following the decision in *Suguna Cutpiece*, this writ petition is disposed of by issuing the following directions:

i. The petitioner is directed to file her returns for the period prior to the cancellation of registration, together with tax dues along with interest thereon and the fee fixed for belated filing of returns within a period of forty five (45) days from the date of receipt of a copy of this order.

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 the petitioner.

iii. If any Input Tax Credit has remained unutilized, it shall not be utilised until it is scrutinized and approved by an appropriate or competent officer of the Department.

iv. Only such approved Input Tax Credit shall be allowed to utilized thereafter for discharging future tax liability under the Act and Rules.

v. The petitioner 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.

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. On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.

viii. 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 the petitioner to file the returns and to pay the tax / penalty / fine.

ix. 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.

6. The restoration of the GST registration is subject to and conditional upon fulfilling the above conditions.

7. W.P.No.2486 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.2717 and 2718 of 2024 are closed.

06.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

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Commissioner of Commercial Taxes,
No. 5 Kamaraj Salai , Chepauk, Chennai 05 .

2.The Appellate Deputy Commissioner (ST),
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