IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.02.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.3098 of 2024

M/s.R.K.Tools,
Represented by its Proprietor Alagarsamy Rathinakumar,
GSTIN: 33APUPR7635B1ZL,
No.261/6, Behind Water Tank, Vinayakar Koil Backside,
Rajeswari layout, Begepalli Post,
Hosur. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Hosur North 1 Assessment Circle,
Commercial Tax Buildings,
Hosur. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in Reference No.ZA330223033446Z dated 07.02.2023 and to quash the same as illegal, arbitrary and direct the respondent to revoke the cancellation of petitioner GSTN registration No. 33APUPR7635B1ZL within such time as may be directed by this Hon'ble Court.

For Petitioner : Dr.A.Thiyagarajan, Sr. Advocate for Mr.S.Karunakar

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

The petitioner challenges an order of cancellation of his GST registration. The petitioner is a manufacturer of automobile spare parts and was a registered person under applicable GST laws. According to the petitioner, he had engaged the services of an accountant for purposes of complying with requirements under GST laws. Therefore, he was shocked and surprised when he discovered that his GST registration was cancelled by the order impugned herein. The present writ petition arises in the said facts and circumstances.

2. Learned senior counsel for the petitioner submitted that the petitioner had filed a return in Form GSTR-1 for April 2022. After coming to know of the cancellation, he also filed the GSTR return in Form GSTR-3B for 2022-23 on 11.07.2023. In these circumstances, learned senior counsel submits that the cancellation of the GST registration is causing immense hardship and that such cancellation should be revoked. In support of these contentions, he draws reference to the Judgment of this Court in *Suguna Cutpiece v. Appellate Deputy Commissioner (ST)(GST), W.P.Nos.25048 of 2021 batch (Suguna Cutpiece)*.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondent. He submits that the GST registration of the petitioner was cancelled on account of the petitioner not filing returns for the periods subsequent to April 2022. He also submits that the restoration of GST registration, in such

circumstances, has the effect of defeating the objects and purposes of GST laws. If the petitioner has recently resumed business, learned counsel submits that the appropriate course of action would be to apply for fresh registration.

4. In *Suguna Cutpiece*, this Court directed restoration of GST registration subject to several terms and conditions. The said judgment was followed thereafter in many cases. In order to maintain consistency, I am inclined to follow the said judgment.

5. In the operative portion thereof, the following directions were issued:

"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. Accordingly, W.P.No.3098 of 2024 is disposed of on the same terms without any order as to costs.

13.02.2024

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

To

The Assistant Commissioner (ST),
Hosur North 1 Assessment Circle,
Commercial Tax Buildings,
Hosur.

SENTHILKUMAR RAMAMOORTHY,J

rna

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