IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.7321 of 2024 and
W.M.P.Nos.8190 & 8191 of 2024

Parthiban Rajeswari ... Petitioner

-vs-

The Assistant Commissioner (Circle),
Tiruvallur Zone,
Avadi Circle,
Chennai North Commissionerate,
Range-1, Madhavaram Division,
Chennai-600 052. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records in order bearing Reference No. ZA3301220029163 dated 03.01.2022 on the file of the respondent and quash the same and further direct the respondent to restore the GST registration

No.33AGCPR2978Q2ZM of the petitioner.

For Petitioner : Mr.I.Dinesh
for Mr.G.Baskar

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv. (T)

ORDER

The petitioner challenges an order of cancellation of GST registration dated 03.01.2022 and seeks revocation thereof.

2. The petitioner states that a show cause notice dated 02.12.2021 was received asking the petitioner to show cause as to why her GST registration should not be cancelled. She replied thereto on 02.01.2022 and submitted that she had no business for twelve months on account of resurgence of the COVID 19 pandemic and had not filed returns. The cancellation order was issued thereafter on 03.01.2022. The present writ petition was filed in the said facts and circumstances.

3. Learned counsel for the petitioner submits that the tax returns were filed and taxes due and payable by the petitioner were paid till November 2020. He further submits that the petitioner was unable to file returns or pay taxes for the subsequent period on account of resurgence of the COVID 19 pandemic. In support of restoration of registration, learned counsel relies upon the judgment of this Court in *Suguna Cutpiece v. The Appellate Deputy Commissioner (ST)(GST) and others, W.P.Nos.25048 of 2021 batch (Suguna Cutpiece)*.

4. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice on behalf of the respondent. He submits that the order issued in *Suguna Cutpiece* was a conditional order and that the petitioner should be directed to comply with all conditions stipulated therein.

5. The reason set out in the order of cancellation is non filing of

returns for a continuous period of more than twelve months. 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.

6. 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."

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

8. Accordingly, W.P.No.7321 of 2024 is disposed of on the same terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

21.03.2024

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

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To

The Assistant Commissioner (Circle),
Tiruvallur Zone,
Avadi Circle,
Chennai North Commissionerate,
Range-1, Madhavaram Division,
Chennai-600 052.

SENTHILKUMAR RAMAMOORTHY,J

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