IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 27.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.7988 of 2024
and W.M.P.Nos.8961 & 8963 of 2024

Suriya Enterprises,
Represented by its Proprietor,
Mr.Kattan Sekar,
No.275, Edur Village,
Gummidipoondi Taluk, Thiruvallur District,
Tamil Nadu 601 201. ... Petitioner

-vs-

The Assistant Commissioner,
Gummidipoondi Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the respondent in Reference Number ZA331023084019W dated 19.10.2023 and quash the same as arbitrary, illegal.

For Petitioner : Mr.K.Panneerselvam
for Mr.S.Ramanan

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

****

ORDER

The petitioner challenges an order of cancellation of registration dated 19.10.2023 and seeks revocation thereof.

2. By asserting that the petitioner is in the business of undertaking works contracts and providing allied services and could not file returns on account of ill-health, the present writ petition is filed.

3. Learned counsel for the petitioner submits that the petitioner could not file GST returns earlier because the Proprietor was

undergoing treatment since December 2022 for a cyst in the Kidney. 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.V.Prashanth Kiran, learned Government Advocate, 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.7988 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.8961 and 8963 of 2024 are closed.

27.03.2024

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

To

The Assistant Commissioner,
Gummidipoondi Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai 600 003.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.7988 of 2024
and W.M.P.Nos.8961 & 8963 of 2024

27.03.2024