IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8660 of 2024
and
W.M.P.Nos.9643 & 9645 of 2024

M/s.R.K. Services,
Rep. By its Partner,
Door No.5/25, Sri Sakthi Nagar,
Vinayagar Koil Street, Arumbakkam,
Chennai – 600 106. ...Petitioner

Vs.

The Commercial Tax Officer,
Arumbakkam,
Chennai. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in Reference Number ZA330523083149J, quash the order dated 18.05.2023 passed therein and further direct the respondent to restore and activate the registration of the petitioner in GSTIN:33AANFR4686E1ZX.

For Petitioner : Mr.P.V.Sudhakar

For Respondent : Mr.T.N.C.Kaushik, AGP(T)

ORDER

The petitioner assails the order of cancellation of GST registration, dated 18.05.2023.

2. The petitioner asserts that he could not file returns earlier because of inability to pay taxes. It is further stated that funds were arranged later and that monthly returns for January 2023 to March 2023 were filed in February 2024 along with late fee and interest.

3. Learned counsel for the petitioner referred to and relied 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)*, and contends that the petitioner is entitled to an order along similar lines.

4. Learned Additional Government Pleader appearing for the respondent also submits that directions along the lines of *Suguna Cutpiece* may be issued.

5. Accordingly, this Writ petition is disposed of with the following directions:-

i. The petitioner is directed to file returns for the period prior to the cancellation of registration, if not filed, 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 (ITC) which may be lying unutilized or unclaimed in the hands of the petitioner.

iii. If any ITC 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 ITC shall be allowed to be 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 ITC was earned, it shall be allowed to be utilised only after scrutinising and approving by the respondent or any other competent authority.

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

viii. The respondent 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 respondent 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. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

28.03.2024

skt

Index : Yes/No
Speaking Order : Yes/No
NCC : Yes/No

To

The Commercial Tax Officer,
Arumbakkam,
Chennai.

SENTHILKUMAR RAMAMOORTHY, J.

skt

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