IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.9791 of 2024 and
W.M.P.Nos.10818 & 10820 of 2024

M/s.Siyona Knitters,
Represented by its Proprietor Mr.Thankachan Rins,
5/587/2B, Sree Ganesh Nagar,
P.P.Pudhur, R.K.Nagar,
Tiruppur, Tamil Nadu-641 602. ...Petitioner

Vs.

The Commercial Tax Officer,
Tiruppur (Rural-I),
No.16, Emberar Building,
Indira Nagar, Avinashi Salai,
Tiruppur-641 003. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in the impugned order Reference No.ZA330523096859Z dated 22.05.2023 in Form GST REG-19 and to quash the same as it has been passed arbitrarily in violation of principles of natural justice, violative of Article 14 & 19(1)(g) of the Constitution of India.

For Petitioner : Ms.Sharanya Vijay K.
for Mr.K.Vaitheeswaran

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

ORDER

The petitioner challenges an order of cancellation of his GST registration. The petitioner is engaged in small scale manufacturing and selling of knitted garments. A show cause notice was issued on 20.03.2023 stating that the petitioner had not filed GST monthly returns for a continuous period of six months. Such show cause notice was not replied to on account of the fact that the petitioner met with an accident. Thereafter, the impugned order was issued on 22.05.2023 and the present writ petition was filed in the above facts and circumstances.

2. Learned counsel for the petitioner submits that the tax returns were filed and taxes due and payable by the petitioner were paid till he met with an accident in September 2022. She further submits that due to the accident, the petitioner was bedridden and was unable to file returns or pay taxes for the subsequent period. 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).

3. 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.

4. The reason set out in the order of cancellation is non filing of returns for a continuous period of six 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.

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

7. Accordingly, W.P.No.9791 of 2024 is disposed of on the same terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

15.04.2024

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

kj

SENTHILKUMAR RAMAMOORTHY,J.

Kj

To

The Commercial Tax Officer,
Tiruppur (Rural-I),
No.16, Emberar Building,
Indira Nagar, Avinashi Salai,
Tiruppur-641 003.

W.P.No.9791 of 2024 and
W.M.P.Nos.10818 & 10820 of 2024

15.04.2024