IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 17.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10077 of 2024
and W.M.P.Nos.11094 & 11097 of 2024

M/s.Saraswathi Jewellers
Rep. by its Prop: Sri Rakesh,
No.37/41, Shymantaka Lehar Mangala,
Veerappan Street, Chennai 600 079. ... Petitioner

-vs-

1.The Deputy Commissioner (ST),
GST-Appeal, Chennai-1,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road, Chennai 600 006.

2.Superintendent,
Sowcarpet Assessment Circle,
North-1, Chennai. ... Respondents

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 relating to the Memorandum in RC.No.1443/2023/A2 dated 06.03.2024 passed by the first respondent and the Order of Cancellation of Registration in Reference Number: ZA330323071031A dated 15.03.2023 passed by the second respondent and to quash the same as contrary to the provisions of the Act, violative of principles of natural justice, contrary to law and further direct the second respondent to revoke the cancellation of registration of the petitioner.

For Petitioner : Mr.K.Jayachandran

For Respondents : Mrs.K.Vasanthamala, GA (T)

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ORDER

An order of cancellation of the petitioner's GST registration is challenged in this writ petition, wherein the subsequent appellate order is also challenged.

2. The petitioner asserts that he had entrusted GST compliances

to his Accountant and on account of such Accountant leaving the services of the petitioner, he was unable to file returns. In those circumstances, the petitioner received show cause notice dated 02.02.2023. Upon receipt thereof, the petitioner filed the GSTR 1 and GSTR 3B returns for August and September for the assessment period 2022-23 in February 2023. As a consequence of filing returns for August and September, the petitioner states that there was no contravention of Section 29(2)(c) of applicable GST enactments as it stood at the relevant point of time. The order of cancellation was issued thereafter on 15.03.2023.

3. Learned counsel for the petitioner referred to the show cause notice and the documents evidencing filing of GSTR 1 and GSTR 3B returns for August and September of the assessment period 2022-23. He also points out that returns for the relevant six month period, which is referred to in the show cause notice, were filed thereafter. He further submits that the petitioner filed an application to revoke

the cancellation, but the same was not acted upon. In those circumstances, he submits that an appeal was presented but such appeal was rejected on the ground of limitation.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. She submits that the petitioner had not filed returns for a continuous period of six months when the show cause notice was issued. She also submits that the order of this Court in *Suguna Cutpiece* may be followed.

5. Section 29(2)(c) of applicable GST enactments, as its stood at the relevant point of time, enabled cancellation of registration for non filing of returns by a registered person for not less than a continuous period of six months. The show cause notice was issued on 02.02.2023. Such show cause notice alleges non filing of returns for a continuous period of six months. The petitioner has placed on record proof of filing of GSTR 1 and 3B returns for August and

September 2022-23. Such returns were filed in February 2023. The impugned order of cancellation was issued on 15.03.2023, which is subsequent thereto. By the time of cancellation, on account of the filing of the returns for August and September of assessment period 2022-23, it could not have been concluded that the petitioner had not filed returns for a continuous period of six months. In those circumstances, the impugned order of cancellation cannot be sustained.

6. For reasons set out above, impugned order of cancellation dated 15.03.2023 is set aside and, as a consequence, the registration of the petitioner shall stand restored. Such restoration is subject to the petitioner filing returns for all periods commencing from the effective date of cancellation. It is also made clear that this order will not stand in the way of any proceedings initiated against the petitioner in respect of tax liability.

7. W.P.No.10077 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11094 and 11097 of 2024 are closed.

17.04.2024

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

To

1.The Deputy Commissioner (ST),
GST-Appeal, Chennai-1,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road, Chennai 600 006.

2.Superintendent,
Sowcarpet Assessment Circle,
North-1, Chennai.

SENTHILKUMAR RAMAMOORTHY,J

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