IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.12790 of 2024 and
W.M.P.No.13959 of 2024

Jayakumar Plumbing Electrical and
Civil Engineering Works,
Represented by its Proprietor Jayakumar,
No.17, Perumal Kovil Street,
Kunnavakkam Village & Post,
Chengalpattu Taluk & District-603 002. ... Petitioner

-vs-

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

2. The Assistant Commissioner,
Chengalpattu Assessment Circle,
Chengalpattu. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the 2nd respondent order dated 06.03.2023 in Reference Number: ZA330323028368Q and the records of the 1st respondent pertaining to the impugned order dated 14.03.2024 passed in RC.No.171/2024/A1 and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

For Petitioner : Mr.P.Suresh Babu

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

ORDER

The petitioner assails an appellate order rejecting the appeal against cancellation of the petitioner's GST registration and also such order of cancellation.

2. By asserting that the petitioner could not file returns in time on account of ill-health, the present writ petition was filed.

3. Learned counsel for the petitioner submits that the petitioner endeavoured to file GST returns and presented an appeal against the cancellation of registration in 2023 through online, but the appeal was not received on the ground of limitation. By placing reliance on an earlier order of this Court dated 08.02.2024 in W.P.No.33227 of 2023 batch, learned counsel submits that a similar order be passed in this case.

4. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice on behalf of the respondents. 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 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 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 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.12790 of 2024 is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

07.06.2024

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

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To

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