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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM :

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12764 of 2024
and
W.M.P.Nos.13938 & 13939 of 2024

Jai Maruthi Enterprises,
Rep.by the Proprietrix Murali Jayanthi ... Petitioner

Versus

1.The Deputy Commissioner (ST),
GST Appeal, Chennai – I,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road,
Chennai – 6.

2.The Assistant Commissioner,
Ponneri Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai – 600 003,
Tamil Nadu. ... 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 order in Reference No.ZA3302220116447 dated 03.02.2022 passed by the 2nd Respondent cancelling the Registration of GST in GSTIN/Temp ID/UIN 33AWTPJ3190P2ZS and Order in Rc.No.

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69/2024/A1 in memorandum dated 01.03.2024 passed by the 1st Respondent and to quash the above orders and to direct the Respondents to restore the GST registration certificate of the Petitioner in GSTIN 33AWTPJ3190P2ZS.

For Petitioner	:	Ms. Y. Kavitha, for M/s. P.V.S. Giridhar Associates.
For Respondents	:	Mr. C. Harsha Raj, Additional Government Pleader (Tax)

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. The petitioner asserts that she was unaware of the order of cancellation of the GST registration on account of her complete dependence on her brother and staff members of the firm.

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 2024, but the appeal was not received on the

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ground of limitation. Learned counsel 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 for the respondents 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

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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.

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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.

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Index : Yes
Speaking Order : Yes
Neutral Case Citation: Yes

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