IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2024

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.Nos.12785 & 12786 of 2024 and
W.M.P.Nos.13951 & 13958 of 2024

M/s.A.R.J. Engineering Works,
Represented by its Proprietrix J.Anitha,
No.16, Athipattu Main Road,
Ground Floor, Ambattur,
Chennai-600 053. ... Petitioner in W.P.No.12785 of 2024

M/s.A.R.J. Engineering Works,
Represented by its Proprietor
Arokiyasamy Joseph Napolean,
No.89, Kamaraja Street, Balaji Nagar Extension,
Pudur, Ambattur,
Chennai-600 053. ... Petitioner in W.P.No.12786 of 2024

Versus

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. .. 1st respondent in both WPs.

2.The Assistant Commissioner,
Ambattur Assessment Circle,
Ambattur, Chennai. ... 2nd Respondent in W.P.No.12785 of 2024

2. The Assistant Commissioner,
Thirumullaivoyal Assessment Circle,
Thirumullaivoyal, Chennai. .. 2nd respondent in W.P.No.12786 of 2024

Prayer in W.P.No.12785 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the 2nd respondent order dated 02.02.2023 in Reference Number: ZA330223011523B and the records of the 1st respondent pertaining to the impugned order dated 14.03.2024 passed in RC.No.361/2024/A1 and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

Prayer in W.P.No.12786 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the 2nd respondent order dated 11.11.2022 in Reference Number: ZA3311220433090 and the records of the 1st respondent pertaining to the impugned order dated 19.03.2024 passed in RC.No.769/2024 and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

In both WPs.

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr. V. Prashanth Kiran,
Government Advocate (Tax)

COMMON ORDER

The respective petitioner herein challenges an order of cancellation of registration and seeks revocation thereof.

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

3. Learned counsel for the respective petitioner submits that the respective petitioner endeavoured to file GST returns and presented appeals against the cancellation of registration in 2024, but the appeals were 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.V.Prashanth Kiran, learned Government Advocate, 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 respective petitioner should be directed to comply with all conditions stipulated therein.

5. In view of the said submissions, it is not necessary to adjudicate these matters on merits. Instead, by following the decision in *Suguna Cutpiece*, these writ petitions are disposed of by issuing the following directions:

i. The respective petitioner herein 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 petitioners.

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 respective 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 respective 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.Nos.12785 & 12786 of 2024 are disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

07.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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