IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.14915 of 2024
and W.M.P.Nos.16182 & 16184 of 2024

Mahesh Kumar Sharma Vijay Sharma,
Proprietor of "M/s.ICM Industries (defunct),
71/A, V K Mill Compound,
BG Road, Sandaipet Shevapet,
Salem – 636 002. ...Petitioner

-vs-

The Assistant Commissioner (Circle),
Anaathanapatty,
Salem. ...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in GSTIN: 33AJTPV8943P1ZW bearing a Ref.No. ZA330921034806K dated 08.09.2021 issued by the respondent and quash the same, and further direct the respondent to restore the GST registration of the petitioner vide GSTIN: 33AJTPV8943P1ZW.

For Petitioner : Mrs.R.Hemalatha

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

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ORDER

The petitioner assails an order of cancellation dated 08.09.2021 of the petitioner's GST registration. The petitioner states that a show cause notice dated 20.10.2020 was issued asking the petitioner to show cause as to why his GST registration should not be cancelled. The cancellation order was issued thereafter on 08.09.2021.

2. Learned counsel for the petitioner relies on an earlier order of this Court dated 08.02.2024 in W.P.Nos.33227 of 2023 and related matters.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, accepts notice for the respondent. He points out that it is unclear from the affidavit of the petitioner as to whether returns were filed up to the date of cancellation.

4. The reasons set out in the order of cancellation is non filing of returns for a continuous period of more than six months. In *Suguna Cutpiece v. The Appellate Deputy Commissioner (ST)(GST) and others, W.P.Nos.25048 of 2021 batch*, this Court directed restoration of registration subject to certain conditions. In the over all facts and circumstances, the petitioner is entitled to an order on similar lines.

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, 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.14915 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.16182 and 16184 of 2024 are closed.

18.06.2024

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

To

The Assistant Commissioner (Circle),
Anaathanapatty,

Salem.

SENTHILKUMAR RAMAMOORTHY,J

rna

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