



WEB COPY



W.P.No.17316 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.17316 of 2024 and
W.M.P.Nos.19097 & 19098 of 2024

M/s.Kamala Catering,
Rep by its Proprietor,
No.15/9, Srinivasan Street,
Saligramam, Chennai-600 093.

... Petitioner

-VS-

The Assistant Commissioner (Circle),
Saligramam, Chennai-600 093.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent in his proceedings in Reference No.ZA3303220202658, quash the order dated 04.03.2022 passed therein and further direct the respondent to restore and activate the Registration of the petitioner in GSTIN/UIN:33EVFPK1986K1Z6.

For Petitioner : Mr.P.V.Sudakar



W.P.No.17316 of 2024

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

WEB COPY

ORDER

The petitioner challenges an order of cancellation of GST registration dated 04.03.2022 and seeks revocation thereof. By asserting that the petitioner could not file returns in time on account of ill-health and COVID 19 pandemic, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the petitioner had no business on account of resurgence of the COVID 19 pandemic and had not filed returns. She would file the necessary GST returns in the event of the GST registration being restored. In support of restoration of registration, learned counsel relies 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)*.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts



W.P.No.17316 of 2024

notice for the respondent and submits that directions along the lines of *Suguna Cutpiece* may be issued.

4. 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 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.



W.P.No.17316 of 2024

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.

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.

5. The restoration of the GST registration is subject to and conditional upon fulfilling the above conditions.

6. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are



closed.

WEB COPY



W.P.No.17316 of 2024

16.07.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

kj

To

The Assistant Commissioner (Circle),
Saligramam, Chennai-600 093.

SENTHILKUMAR RAMAMOORTHY,J

kj

5/6



WEB COPY



W.P.No.17316 of 2024

W.P.No.17316 of 2024 and
W.M.P.Nos.19097 & 19098 of 2024

16.07.2024