IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **01.08.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18539 of 2024 and
W.M.P.No.20321 of 2024

M/s.Kaghaz Subh Vanejya,
Represented by Sanjay Jindal Proprietor,
3rd floor, No.15, Shivams Apartment,
Banson Garden Street,
Purasawalkam, Chennai. ... Petitioner

-vs-

The Superintendent,
Purasawalkam, Range II,
Chennai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the respondent in reference no. ZA3303240244218 dated 7.3.24 and quash the same as being invalid and illegal.

For Petitioner : Mr.Srikanth

For Respondent : Mr. A.P.Srinivas, Senior Standing Counsel

ORDER

The petitioner challenges an order of cancellation of GST registration dated 07.03.2024 and seeks revocation thereof.

2. The petitioner asserts that he had engaged the services of a Chartered Accountant for purposes of complying with requirements under GST laws. A show cause notice was issued on 05.02.2024 stating that the petitioner had not filed GST monthly returns for a continuous period of six months. Such show cause notice was not replied to. Thereafter, the impugned order was issued on 07.03.2024 and the present writ petition was filed in the above facts and circumstances.

3. Learned counsel for the petitioner submits that the petitioner 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)*.

4. Mr. A.P.Srinivas, learned senior standing counsel, accepts notice for the respondent and 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 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.

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, connected miscellaneous petition is closed.

01.08.2024

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

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To
The Superintendent,
Purasawalkam, Range II,
Chennai.

SENTHILKUMAR RAMAMOORTHY,J

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