IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.19543 of 2024
AND
W.M.P.No.21392 of 2024

TVL Vivek Engineering Tools and Services,
represented by Its Proprietor Mr.Ekambaram Vivekananth,
Plot No.16, VelavanNagar, Kolathur,
Thiruvallur, Tamil Nadu – 600 099. .. Petitioner

Vs

1. Deputy Commissioner [ST],
GST Appeal Chennai – I,
O/o.Deputy Commissioner [ST],
3rd Floor, CT Annexe Building, No.1 Greams Road,
Tamil Nadu, Chennai – 600 006.

2. State Tax Officer [Circle],
Perambur Assessment Circle, Chennai. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the first respondent pertaining to the impugned order dated 04.04.2024 passed in RC.No.1343/2024 and quash the same and consequently, direct the second respondent herein to grant restoration of cancelled registration under the GST enactments to the petitioner.

For petitioner : Mr.Prakash T C

For respondents : Mr.C.Harsha Raj
Additional Government Pleader [T]

ORDER

Challenge in this writ petition is to the order dated 21.09.2022, cancelling GST registration of the petitioner.

2. The learned counsel for the petitioner submitted that due to his serious health and fund issues, the petitioner was unable to concentrate his business and file the GST returns continuously on time. In these circumstances, GST registration came to be cancelled with effect from 28.02.2022.

3. The learned counsel for the petitioner referred to and relied upon the order of this Court in Suguna Cutpiece v. The Appellate Deputy Commissioner (ST)(GST) and others (W.P.Nos.25048 of 2021 etc. batch decided on 31.01.2022), and contends that the petitioner is entitled to an order on similar lines.

4. The learned Special Government Pleader appearing for the respondents also submit that directions on the lines of Suguna Cutpiece (stated supra) may be issued.

5. In view of the above, restoration of the GST registration is subject to and conditional upon fulfilling the following conditions :

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 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 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.

The writ petition is disposed of on the above terms. No costs. Connected W.M.P. is closed.

21.08.2024

vrc

Index : Yes/No
Neutral Citation : Yes/No

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KRISHNAN RAMASAMY, J.

vrc

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