IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.21970 of 2024
AND
W.M.P.No.23953 of 2024

MV Constructions,
represented by its Proprietor Ramalingam Manivasakam
No.3, 2nd Avenue, Ashok Nagar, Chennai – 600 083. .. Petitioner

Vs

1. The Additional Commissioner [CT] GST – Appeals – II,
   O/o.Commissioner of GST & Central Excise,
   Newry Towers 2nd Floor, No.2054/I, II Avenue,
   19th Main Road, Anna Nagar, Chennai – 600 040.

2. The Superintendent of GST,
   Vadapalani Circle, Zone – V,
   Chennai Central, Chennai – South. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the second respondent order dated 10.12.2021 in Reference Number ZA3312210371729 and the records of the first respondent pertaining to the impugned order dated 14.06.2024 passed in Order-in-Appeal No.167/2024 (GSTA-II) (ADC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST Registration of the petitioners firm.

For petitioner : Mr.P.Suresh Babu

For respondents : Mr.M.Rajnish Pathiyil, SPC

O R D E R

Challenge in this writ petition is to the order dated 10.12.2021, 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 on 28.02.2022. Appeal filed as against the same has been dismissed. Challenging the same, the present Writ Petition has been filed.

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 counsel 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

To

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KRISHNAN RAMASAMY, J.

vrc

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