IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. No.22886 of 2024
AND
W.M.P. Nos.24920 and 24921 of 2024

Ali & Co.
Rep. by its Partner
No.92/182, 2nd Floor
Prakasam Salai
Broadway, Chennai 600 001 .. Petitioner

Vs

The Assistant Commissioner
Harbour Assessment Circle
Chennai ..Respondent

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 respondent in his proceedings in Reference No.ZA330922068812F, quash the order dated 21.09.2022 passed therein and further direct the respondent to restore and activate the registration of the petitioner in GSTIN: 33AAHFA33231G1Z1.

For Petitioner	Mr. P.V. Sudakar
For respondent	Mr. G. Nanmaran Special Govt. Pleader (Taxes)

O R D E R

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 ill health, the petitioner was unable to commence the business for six months from the date of GST registration. In these circumstances, GST registration was cancelled by the respondent by order dated 21.09.2022.

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 respondent also submits 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 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.

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

14.08.2024

gya
Index : Yes/No
Neutral Citation : Yes/No

To

The Assistant Commissioner
Harbour Assessment Circle
Chennai

KRISHNAN RAMASAMY, J.

gya

W.P.No.22886 of 2024

14.08.2024