IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos. 33227, 33230, 31495, 31500 & 33185 of 2023
&
WMP Nos.32946, 32925, 31133, 31138 & 32950 of 2023

M/s.Vinayaga Enterprises,
Represented by its Proprietor,
Laxmanan Jayaraj,
No.1/107, 1st Floor, Leelavathi Nagar,
Sikkarayapuram, Kanchipuram-600 069. ... Petitioner in WP.No.33227/2023

M/s.Mani Transport,
Represented by its Proprietor,
Manikandan,
SFN 27, Door No.2/235, Kannikapuram,
Kattupakkam, Chennai-600 056. .. Petitioner in WP.No.33230/2023

M/s.Preethi Enterprises,
Represented by its Proprietor, Preethi,
No.206/4A, Bazzar Street, Periyapalaam,
Uthukottai Taluk, Tiruvallur-601 102. ... Petitioner in WP.No.31495/2023

M/s.Gem Enterprises,
Represented by its Proprietor,
Adhinarayanan Gowri Lakshmikantan
No.25, Lakhmanan Nagar, East Main Road,
Peravaur, Chennai,Tamil Nadu-600 082. ... Petitioner in WP.No.31500/2023

M/s.Rohit Cars,
Represented by its Proprietor,
Kothandapani Delli Babu,
No.1/113, Arunagiriyar Street, Kolapakkam,
Gerugampakkam Post,
Kanchipuram-600 122. ... Petitioner in WP.No.33185/2023

-vs-

1.The Appellate Authority/The Addl. Commissioner of GST (Appeals-II),
O/o. The Commissioner of GST & Central Excise(Appeals-II),
Newry Towers, 2nd Floor,
No.2054/I, II Avenue,
12th Main Road, Anna Nagar,
Chennai-600 040. ... 1st Respondent in all WPs

2.The Superintendent of GST & Central Excise,
Poonamallee Range-I,
Commissionerate-Chennai Outer,
Poonamallee. ... 2nd Respondent in WP.33227/2023

The Superintendent of GST & Central Excise,
Ayyappanthangal,
Commissionerate-Chennai Outer,
Poonamallee Range-I,
Poonamallee. ... 2nd Respondent in WP.33230/2023

The Superintendent of GST & Central Excise,
Commissionerate-Chennai Outer,
Tiruvallur Circle,
Poonamallee Range-II, Poonamallee Division,

Tiruvallur. ... 2nd Respondent in WP.31495/2023

The Superintendent of GST & Central Excise,
Thiru.Vi.Ka.Nagar Division-Chennai North
Commissionerate, Villivakkam-III Circle,
Chennal Central, Tamil Nadu-600 082. ... 2nd Respondent in WP.31500/2023

The Superintendent of GST & Central Excise,
Kanchipuram Rural,
Commissionerate-Chennai Outer,
Sriperumpudur Circle & Range,
Kanchipuram. ... 2nd Respondent in WP.33185/2023

PRAYER in W.P.No.33227 of 2023: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the 2nd respondent order dated 08.06.2023 in Reference Number:ZA330623038163W and the records of the 1st respondent pertaining to the impugned order dated 18.10.2023 passed in Order-in-Appeal No.226/2023 (GSTA-II) (ADC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

PRAYER in W.P.No.33230 of 2023: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the 2nd respondent order dated 29.05.2023 in Reference Number:ZA3305232500616 and the records of the 1st respondent pertaining to the impugned order dated 18.10.2023 passed in Order-in-Appeal No.225/2023 (GSTA-II) (ADC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

PRAYER in W.P.No.31495 of 2023: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the 2nd respondent order dated 23.02.2023 in Reference Number:ZA330-223118277W and the records of the 1st respondent pertaining to the impugned order dated 25.08.2023 passed in Order-in-Appeal No.161/2023 (GSTA-II) (JC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

PRAYER in W.P.No.31500 of 2023: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the 2nd respondent order dated 26.04.2023 in Reference Number:ZA330423111348Y and the records of the 1st respondent pertaining to the impugned order dated 11.10.2023 passed in Order-in-Appeal No.127/2023 (GSTA-I) (ADC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

PRAYER in W.P.No.33185 of 2023: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the 2nd respondent order dated 08.03.2023 in Reference Number:ZA3303230390443 and the records of the 1st respondent pertaining to the impugned order dated 17.10.2023 passed in Order-in-Appeal No.220/2023 (GSTA-II) (ADC) and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

In all WPs

For Petitioner : Mr.P.Suresh Babu

For Respondents : Mr.Rajnish Pathiyil,
Senior Standing Counsel

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COMMON ORDER

The respective petitioner herein challenges an order of cancellation of registration and seeks revocation thereof.

2. By asserting that the respective petitioner could not file returns in time on account of ill-health, the present writ petitions were filed.

3. Learned counsel for the respective petitioner submits that the respective petitioner endeavoured to file GST returns and presented appeals against the cancellation of registration in 2023, but the appeals were not received on the ground of limitation. By placing reliance on an earlier order of this Court in *Marimuthu Venkateshwaran v. The Commissioner 2022 LiveLaw (Mad) 494*, learned counsel submits that a similar order be passed in this case.

4. Mr.Rajnish Pathiyil, learned senior standing counsel, accepts notice on behalf of the respondents. He submits that the order issued in *Suguna Cutpiece v. The Appellate Deputy Commissioner (ST) (GST) and others (W.P.Nos.25048, 25877, 12738 of 2021 etc., batch) dated 31.01.2022 (Suguna Cutpiece),* was a conditional order and that the respective petitioner should be directed to comply with all conditions stipulated therein.

5. In view of the said submissions, it is not necessary to adjudicate these matter on merits. Instead, by following the decision in *Suguna Cutpiece*, these writ petitions are disposed of by issuing the following directions:

i. The respective petitioner herein is directed to file returns for the period prior to the cancellation of registration, 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 which may be lying unutilized or unclaimed in the hands of the petitioners.

iii. If any Input Tax Credit 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 Input Tax Credit shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

v. The respective 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 Input Tax Credit 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 respective 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.

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

7. W.P.Nos,33227, 33230, 31495, 31500, & 33185 of 2023 are disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2024

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

To

1.The Appellate Authority/The Addl. Commissioner of GST (Appeals-II),
O/o. The Commissioner of GST &
Central Excise(Appeals-II), Newry Towers,
2nd Floor, No.2054/I, II Avenue,
12th Main Road, Anna Nagar,
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Commissionerate-Chennai Outer,
Poonamallee Range-I,
Poonamallee.
4.The Superintendent of GST & Central Excise,
Commissionerate-Chennai Outer,
Tiruvallur Circle,
Poonamallee Range-II, Poonamallee Division,
Tiruvallur.
5.The Superintendent of GST & Central Excise,
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