



W.P. No.34759 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.34759 of 2024

M/s.RM Infrastructure,
Represented by its Proprietor,
Mr.Sivasubramanian Murugesan,
No.76, Dharma Nagar, II Street,
Suramangalam,
Salem-636005.

... Petitioner

Vs.

1.The Superintendent of G.S.T and Central Excise,
Salem-I Range, Suramangalam,
Salem-I Division.

2.The Commissioner of GST & Central Excise (Appeals),
Coimbatore circuit office,
Salem No.1 Foulke's Compound,
Anai Road, Salem-636001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for first respondent's order in original dated 02.03.2023 with Ref No.ZA330323008948K and quash the same and pass orders.

For Petitioner

: Mr.Adithya Reddy

For Respondents

: Mr.T.Ramesh Kutty
Senior Standing Counsel



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ORDER

By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

2. The present Writ Petition is filed challenging the order of the cancellation of the registration of the petitioner dated 02.03.2023 on the premise that the statutory returns has not been filed for a continuous period of more than six months from July 2022, thereby invoking Section 29(2) of CGST Act.

3. At the outset, it is submitted by both the learned Counsel for the petitioner as well as the learned Senior Standing Counsel for the Respondents that the issue stands covered by a series of judgments, commencing with the decision in *Tvl.Suguna Cutpiece Center Vs. Appellate Deputy Commissioner (ST) (GST) and others*, wherein, under identical circumstances, this Court has directed the revocation of registration subject to conditions.

4. This Court has been consistently following the directions issued in *Tvl.Suguna Cutpiece Center's case*. The relevant portion of the order is extracted



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“229. In the light of the above discussion, these Writ Petitions are allowed subject to the following conditions:

i. The petitioners are directed to file their returns for the period prior to

the cancellation of registration, if such returns have not been already filed, together with tax defaulted which has not been paid prior to cancellation along with interest for such belated payment of tax and fine and fee fixed for belated filing of returns for the defaulted period under the provisions of the Act, within a period of forty five (45) days from the date of receipt of a copy of this order, if it has not been already paid.

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 these petitioners.

iii. If any Input Tax Credit has remained utilized, it shall not be utilised until it is scrutinized and approved by an appropriate or a competent officer of the Department.

iv. Only such approved Input Tax Credit shall be allowed for being utilized thereafter for discharging future tax liability under the Act and Rule.

v. The petitioners 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 and payment of GST shall also be in cash.



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. *The respondents may also impose such restrictions / limitation on petitioners as may be warranted to ensure that there is no undue passing of Input Tax Credit pending such exercise and to ensure that there is no violation or an attempt to do bill trading by taking advantage of this order.*

viii. *On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.*

ix. *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 these petitioners to file their returns and to pay the tax/penalty/fine.*

x. *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.*

xi. *No cost.*

xii. *Consequently, connected Miscellaneous Petitions are closed.”*

5. In view thereof, the benefit extended by this Court vide its earlier order in *Suguna Cutpiece Centre's case* cited supra, may be extended to the petitioner.



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6. Accordingly, this Writ Petition is disposed of on the above terms.

No costs. Consequently, WMP Nos.37689 and 37692 are closed.

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Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

mrn

To:

- 1.The Superintendent of G.S.T and Central Excise,
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Salem-I Division.
- 2.The Commissioner of GST & Central Excise (Appeals),
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MOHAMMED SHAFFIQ, J.

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