IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35539 of 2024
and
W.M.P.No.38414 of 2024

Mr.S.Panneer Selvam,
Proprietor of M/s.Mahaa Sree Motors.,
S/o.Sellappa,
No.50, GP Lane Mount Road, Anna Salai,
Chennai 600 002. .. Petitioner

Vs.

1. The State of Tamil Nadu,
   Represented by its Principal Secretary,
   Commercial Taxes Department,
   Ezhilagam, Chepauk,
   Chennai 600 005.

2. The Commercial Tax Officer, (ST)
   Thiruvallikkeni Assessment Circle,
   Chennai 600 005. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records leading to issuance of Impugned Order for cancellation of Registration in Ref.No.ZA331118036706M dated 13.11.2018 by the 2nd respondent herein and quash the same as arbitrary and consequently direct the respondents to restore-reactivate the petitioner's GSTN Registration No.33ATQPP4578D2ZA so as to enable the petitioner to file their returns under TNGST Act.

For Petitioner	:	Mr.R.Vijayaraghavan for Mr.M.K.Ajith Kumar
For Respondents	:	Mr.TNC.Kaushik Additional Government Pleader

ORDER

The present writ petition is filed challenging the order of cancellation of registration vide reference No.ZA331118036706M dated 13.11.2018 by the 2nd respondent herein and quash the same as arbitrary and consequently direct the respondents to restore-reactivate the petitioner's GSTN Registration No.33ATQPP4578D2ZA.

2. At the outset, it is submitted by both the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondent 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.

3. This Court has been consistently following the directions issued in ***Tvl.Suguna Cutpiece Center's case.*** Relevant portion of the order is extracted hereunder:

> *"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.

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.”

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

5. Accordingly, this Writ Petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
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To:

1. The State of Tamil Nadu,
   Represented by its Principal Secretary,
   Commercial Taxes Department,
   Ezhilagam, Chepauk,
   Chennai 600 005.

2. The Commercial Tax Officer, (ST)
   Thiruvallikkeni Assessment Circle,
   Chennai 600 005.

MOHAMMED SHAFFIQ, J.

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