IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **10.12.2024**

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.37156 of 2024
and
W.M.P.No.40155 of 2024

Hemsri Enterprises,
Represented by its Proprietor,
Sakthi Narayanan ... Petitioner

Vs.

The Assistant Commissioner,
Sriperumbudur Assessment Circle,
Kancheepuram Zone & Division,
Kancheepuram. … Respondent

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the respondent in Reference No.ZA330624224223103 dated 29.06.2024 and quash the same and consequently direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

For Petitioner : Mr.P.Suresh Babu

For Respondent : Mr.Prasanth Kiran
Gov.Advocate (T)

ORDER

This writ petition has been filed challenging the impugned order passed by the respondent bearing Reference ZA33062424223103 dated 29.06.2024 and consequently direct the direct the respondents to revoke the cancellation of the GST registration of the petitioner's firm.

2. The case of the petitioner is that the petitioner is running a business of interior decorators/designers service and it is registered under the TNGST Act. During the relevant period, the petitioner has not filed GST returns. Hence, the respondent has issued Show Cause Notice to the petitioner on 11.07.2023 and the same was uploaded in the web-portal However, the petitioner had neither filed its reply nor filed the returns for six months. Hence, the impugned order came to be passed.

3. The learned counsel for the petitioner submitted that the Commecial Tax Officer issued a show cause notice dated 11.07.2023 for cancellation of Registration due to the non-filing of the returns for a period of six months.

The petitioner has not filed any reply to the show cause notice. Hence, the impugned order came to be passed by the respondent dated 29.06.2024.

4. The learned Government Advocate appearing for the respondent submitted that identical prayer in this writ petition has already been considered by this Court in W.P.No.33227 of 2024 and etc., batch dated 08.02.2024 and the same may be followed in the present writ petition.

5. The relevant paragraphs of the above said order are extracted hereunder:-

> 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.
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> 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

6. In view of the same, this Writ Petition is also disposed of, on the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

10.12.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
kkd

To:

The Assistant Commissioner,
Sriperumbudur Assessment Circle,
Kancheepuram Zone & Division,
Kancheepuram.

J.SATHYA NARAYANA PRASAD,J.

kkd

W.P.No.37156 of 2024

10.12.2024