BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.17126 of 2024
and
W.M.P.(MD)Nos.14772 & 14774 of 2024

The Commissioner,
Lalgudi Town Panchayat,
1, Market Road,
Paramasivapuram,
Lalgudi,
Tiruchirappalli – 621 601. ... Petitioner

Vs.

1. The Commissioner of GST & Central Excise,
O/o the Commissioner of GST & Central Excise (Appeals),
Coimbatore Circuit Office, Madurai.
4, Lal Bahadur Shastri Marg,
C.R.Buildings, Madurai – 625 002.

2. The Superintendent of CGST & Central Excise,
Lalgudi Range,
Trichy-II Division,
Trichy – 620 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the impugned order passed by the 2nd respondent in reference No.ZA3311190541850 dated 14.11.2019 and the order of the first respondent in Appeal No.TRY-CGST-ADC-APP-52/2023 dated 21.12.2023 and quash the same as illegal.

For petitioner : Mr.M.Kannan

For respondents : Mr.R.Nanda Kumar
Senior Standing Counsel

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ORDER

Heard learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.

2. The petitioner is aggrieved by the impugned order dated 14.11.2019 bearing reference No.ZA3311190541850 passed by the second respondent as also the impugned order dated 21.12.2023 bearing reference in Appeal No.TRY-CGST-ADC-APP-52/2023 passed by the first respondent.

3. By the impugned order dated 14.11.2019, the registration of the petitioner has been cancelled with effect from the same date, on account of non-filing of the Return. Aggrieved by the same, the petitioner filed an Appeal before the first respondent and the same was dismissed on the ground of limitation.

4. It is noticed that the issue has been squarely covered by this Court in ***Tvl.Suguna Cutpiece Center Vs. Appellate Deputy Commissioner (ST) (GST) and others, in W.P.Nos.25048, 25877, 12738 of 2021 and etc., batch (decided on 31.01.2022),*** wherein this Court had ordered as follows:

> *"221. While exercising jurisdiction, under Article 226 of the and etc. batch Constitution, the powers of the Court to do justice i.e., what is good for the society, can neither be restricted nor curtailed. This power under Article 226 can be exercised to effectuate the rule of law.*
>
> *......*
>
> *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 and etc. batch 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 and etc. batch 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. This decision has been followed in several cases by this Court. Hence, I do not wish to take any different view.

6. Under these circumstances, the impugned order is set aside and the respondents are directed to restore the service tax registration subject to the petitioner complying with the conditions imposed in ***Tvl.Suguna Cutpiece Center***'s case (cited supra). No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No **26.07.2024**
Internet : Yes / No
apd

To

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O/o the Commissioner of GST & Central Excise (Appeals),
Coimbatore Circuit Office, Madurai.
4, Lal Bahadur Shastri Marg,
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C.SARAVANAN, J.

apd

W.P.(MD) No.17126 of 2024

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