BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.07.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.18000 of 2024
and
W.M.P.(MD)Nos.15417 & 15418 of 2024

K.Alisabrin ... Petitioner

Vs.

The Assistant Commissioner (ST),
Palayamkottai Assessment Circle,
Commercial Taxes Builiding,
AR Line Road, Palayamkottai,
Tirunelveli – 627 002. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order dated 10.06.2023 bearing reference No.ZA330623047738C passed by the respondent rejecting the petitioner’s application for revocation of cancellation of GST Registration, and consequently, directing the respondent to restore the GST registration of the petitioner and quashing the same.

For petitioner : Mr.P.R.Renganath
For respondents : Mr.R.Suresh Kumar
Additional Government Pleader

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ORDER

Heard learned counsel for the petitioner and learned Additional Government Pleader for the respondent.

2. The petitioner is before this Court against the impugned order passed in GST REG 05 dated 10.06.2023 bearing reference No.ZA330623047738C.

3. The petitioner's GST registration was originally cancelled on 17.05.2023. The aforesaid cancellation on 17.05.2023 preceded a show cause notice dated 05.05.2023, wherein, it was alleged that the petitioner had not uploaded the Bank Account details.

4. It is submitted that after the cancellation of registration on 17.05.2023, the petitioner filed an application for revocation of the cancellation, pursuant to which, the petitioner was issued with fresh show cause notice dated 09.06.2023. In the said notice, the petitioner was called upon to show cause as to why the application for revocation of cancellation of GST Registration should not be rejected on account of the failure of producing any of the supporting documents

and that the petitioner's savings account was not acceptable.

5. The learned counsel for the petitioner submits that the petitioner is an engineering consultant, who is receiving service charge from only one recipient and no current account has been maintained by the petitioner.

6. It is submitted that the impugned order rejecting the application of revocation of cancellation of registration on account of the failure of submissions of supporting documents by the petitioner is liable to be interfered with.

7. Having considered the arguments advanced by the learned counsel for the petitioner and learned Additional Government Pleader for the respondent and considering that the petitioner is aged about 62 years and have no other source of income and that the petitioner was only maintaining one savings account detail of which furnished by the petitioner at the time of application filed for revocation of the cancellation of registration on 17.05.2023, the Court is of the view that the impugned order rejecting the application for revocation of registration deserves to set aside. Already the Court has considered the interest of the assessee under the

provisions of respective GST enactments 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).*** The relevant portion reads as under:

> *"229. In the light of the above discussion, these Writ Petitions are allowed subject to the following conditions:-*
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> *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."

8. Under these circumstances, the impugned order rejecting the application for revocation of cancellation of registration is set aside subject to the petitioner complying with the above directions.

9. It is made clear that the petitioner may not be foisted with any additional penalty and late fee for not filing the Return for the period of cancellation of the registration as the petitioner would have been carrying on the business and supplying services even after the cancellation of the registration on 17.05.2023 and after the rejection of the application for revocation of cancellation of registration *vide* impugned order dated 10.06.2023.

In view of the above, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

31.07.2024

To
The Assistant Commissioner (ST),
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AR Line Road, Palayamkottai,
Tirunelveli – 627 002.

C.SARAVANAN, J.

apd

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