



W.P.(MD).No.24296 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2024

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THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

W.P.(MD).No.24296 of 2024

and

W.M.P.(MD).Nos.20559 and 20560 of 2024

The Commissioner,
Paramakudi Municipality,
4/31, Gandhiji Street,
Paramakudi,
Ramanathapuram District.

... Petitioner

Vs.

1.The Commissioner of GST and Central Excise,
Office of the Commissioner of GST
and Central Excise (Appeals),
Coimbatore Circuit Office, Madurai,
4, Lal Bahadur Shashtri Marg,
C.R. Buildings, Madurai – 625 002.

2.The State Tax Officer (Circle),
Virudhunagar Division,
Sivagangai Zone,
Paramakudi Circle,
Madurai.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order passed by the 2nd respondent in Reference Number: ZA331020199088P dated 24.10.2020 and the order of the 1st respondent in



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Appeal Number Ref. No.ZD330224142880P dated 23.02.2024 and quash the same as illegal.

For Petitioner	: Mr.S.Varadharajan
For R-1	: Mr.R.Gowrishankar Senior Standing Counsel
For R-2	: Mr.J.K.Jayaselan Government Advocate

ORDER

The present Writ Petition is filed challenging the impugned order dated 24.10.2020, cancelling the registration of the petitioner under the GST Act on the premise that the statutory returns have not been filed for more than six months, thereby invoking Section 29 of the TNGST Act, 2017. Against the above order of cancellation, the petitioner preferred an appeal, which was again rejected as being barred by limitation vide order dated 23.02.2024.

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



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.

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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.”



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4. 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.

5. Accordingly, this Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

16.10.2024

Index : Yes / No
Internet : Yes/ No
Lm

To

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4, Lal Bahadur Shashtri Marg,
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2.The State Tax Officer (Circle),
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MOHAMMED SHAFFIQ, J.

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