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W.P(MD)No.28674 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.28674 of 2024

and

W.M.P.(MD)No.24305 of 2024

M/s.Sivan Traders,
Rep. by its Proprietrix,
P.Sharmila

... Petitioner

Vs.

The State Tax Officer,
Kovilpatti-II Assessment Circle,
Kovilpatti, Tuticorin District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in his proceedings in Reference No.ZA330722016393V, dated 05.07.2022 and quash the same and further, to direct the respondent to revoke the cancellation of the registration under the GST Act bearing GSTIN/UIN:33JBNPS3223JIZA.

For Petitioner : Mr.A.Satheesh Murugan

For Respondent : Mr.J.K.Jeyaseelan,

Government Advocate



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ORDER

This Writ Petition is filed challenging an order of the cancellation of the registration of the petitioner on the premise that the petitioner has not filed returns for a continuous period of six months.

2.It is submitted by the learned counsel for the petitioner that due to financial crisis and illness of health, the petitioner was not able to upload the monthly returns. However, he would submit that the petitioner is ready to file the returns once the portal is opened and seeks restoration of the GSTN registration.

3.At the outset, it is submitted by both the learned counsel for the petitioner as well as the learned Government Advocate for the respondent that the issue stands covered by a series of judgments, commencing with the decision in *Tvl.Suguna Cutpiece vs. Appellate Deputy Commissioner (ST) (GST) and others* reported in **2022 (2) TMI 933**, wherein, under identical circumstances, this Court has directed the revocation of registration subject to conditions.



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4.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.*

vii. *On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.*

ix. *On payment of tax, penalty and uploading of returns, the registration shall stand revived forthwith.*

x. *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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5.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.

6.Accordingly, this Writ Petition is disposed of on the above terms.

No costs. Consequently, connected miscellaneous petition is closed.

02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva

To
The State Tax Officer,
Kovilpatti-II Assessment Circle,
Kovilpatti, Tuticorin District.



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K.KUMARESH BABU, J

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