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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.28108 of 2023
and
W.M.P.(MD)Nos.24201 and 24202 of 2023

M/s. Leeways Integrated Services Private Limited,
Represented through its Director,
A. Jagadesh, S/o. Arokiadass,
No.39-40, APR Nagar,
Phase II,
Podasapatti,
Thirumuhoor Road,
Madurai – 625 107. ... Petitioner

Vs.

1.The Commissioner of GST,
CR Building,
Bibikulam,
Madurai - 625 002.

2.The Superintendent,
Madurai North East Range,
Madurai Division - II,
GST and Central Excise Commissionerate,
No.5, V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai – 625 002.

3.M/s.CALSEA Footwear Private Limited,
Mukundarayapuram (Post),
Sipcot,
Ranipet District.

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4.M/s.SAC Engine Components Private Limited,
Sipcot Industrial Complex,
Gummidipoondi, Thiruvallur District.

5.M/s. AMWAY India Enterprises Private Limited,
Nilakottai Taluk,
Dindigul District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the second respondent in Ref. No.ZA330223076466M, dated 15.02.2023, quash the same on the ground of want of jurisdiction and on account of violation of constitutional right guaranteed under the Constitution of India relating to Trade and Business and consequently, directing the first respondent to pass appropriate orders to revoke the GST Registration of the Petitioner company (GSTIN - 33AADCL5210H1ZZ) cancelled through the impugned order dated 15.02.2023 in Ref. No. ZA330223076466M dated 15.02.2023 after collecting the amount payable towards tax due with other incidental charges from the respondents 3 to 5, within the time limit as fixed by this Court.

For Petitioner : Mr.R.Aravindan

For R1 and R2 : Mr.N.Dilipkumar
Senior Standing Counsel

ORDER

The issue involved in this Writ Petition is squarely covered by the decision of this Court rendered in **Tvl.Suguna Cutpiece Center** vs. **Appellate Deputy Commissioner (ST) (GST), Salem and Erode, Salem**

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and another, (2022) 99 GSTR 386. The operative portion of the order reads as under:-

> *"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.*

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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 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."

2. In view of the above, the impugned order passed by the second respondent, dated 15.02.2023, is set aside. The petitioner is directed to comply with the above requirements. Subject to the petitioner complying with the above requirements, the registration of the petitioner shall be restored. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No **25.06.2024**
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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