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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2024

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THE HONOURABLE MR.JUSTICE G.K. ILANTHIRAIYAN

W.P.(MD)No.31245 of 2024

M/s.Kshema Wind Farm Services,
represented by its Proprietor Shri Basant Satheesh,
5/201, New Colony,
Gandamannur, SIDCO Industries Estate Marikindi,
Theni Tamil Nadu – 625 517. ... Petitioner

Vs.

The Assistant Commissioner of State Tax,
Theni-II(Andipatti),
Madurai Main Road, SIDCO Industry,
Tamil Nadu – 625 531. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned cancellation of GST Registration Order in FORM GSTR REG-19 bearing reference number ZA331123066635Q, dated 15.11.2023 passed by the respondent and to quash the same as the same being arbitrary and passed in violation of Principles of natural justice and subsequently direct the respondent to restore GST Registration of the Petitioner.

For Petitioner : Mr.G.Natarajan



For Respondent : Mr.J.K.Jeyaseelan,
Govt.Advocate

ORDER

The present Writ Petition is filed challenging the impugned cancellation of GST Registration Order in FORM GSTR REG-19 bearing reference number ZA331123066635Q, dated 15.11.2023 passed by the respondent and to quash the same as the same being arbitrary and passed in violation of Principles of natural justice and subsequently direct the respondent to restore GST Registration of the Petitioner.

2.Mr.J.K.Jeyaseelan, learned Government Advocate takes notice for the respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. It is submitted by the learned counsel for the petitioner that the returns have been filed and the appropriate taxes have also been paid and the petitioner is ready to pay any further taxes that may be due, along with late fee and interest, as required under GST Act.

4.At the outset, it is submitted by both the learned Counsel for the



petitioner as well as the learned Central Government Standing Counsel for the respondent 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.

5. 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*



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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.”

6. 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.

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

No costs.

20.12.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
vsn



To:

The Assistant Commissioner of State Tax,
Theni-II(Andipatti),
Madurai Main Road, SIDCO Industry,
Tamil Nadu – 625 531.



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