IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.3332 of 2025
and
W.M.P.Nos.3700 and 3702 of 2025

Special Village Panchayat Kolappalur Erode District & ICT
Rep. By its Executive Officer N.Gopiraja
11/1, Mankinang Kombai Road, Kolappalur,
Erode, Tamil Nadu 638 054.
GSTIN: 33CMBS08737B1DX ..Petitioner

Vs.

The Assistant Commissioner,
Gobichettipalayam
Erode, Tamil Nadu. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus calling for the records relating to the impugned order vide Form GST REG-08 bearing Ref.No:ZA330224055573S dated 10.02.2024 issued by the respondent and quash the same and further direct the respondent to restore the GST registration of the petitioner vide GSTIN:33CMBS08737B1DX.

For Petitioner : M/s.R.Hemalatha

For Respondent : Mr.C.Harsha Raj,
Additional Government Pleader.

ORDER

The present writ petition is filed challenging the order of the cancellation of the registration of the petitioner as tax deductor at source on the premise that the petitioner has not filed GSTR-7 for a continuous period of six months.

2. Before proceeding further it may be relevant to note that Section 24 of the GST Act, which provides for compulsory registration in certain cases mandates compulsory registration of a person who is required to deduct tax under Section 51 of the GST Act, whether or not separately registered under the Act. It is stated that the petitioner is liable to deduct taxes at source in terms of Section 51 of the GST Act and thus required to be registered compulsorily in terms of Section 24 (vi) of the GST Act.

3. At the outset, it is submitted by both the learned counsel for the petitioner as well as the learned Additional Government Pleader 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.

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

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."

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. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.01.2025

Speaking (or) Non Speaking Order
Neutral Citation: Yes/No
shk

<u>MOHAMMED SHAFFIQ, J.</u>

shk

To

The Assistant Commissioner,
Gobichettipalayam
Erode, Tamil Nadu.

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