IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08-05-2025**

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP Nos. 16525 & 16529 of 2025

and

WMP Nos. 18672 and 18675 of 2025

WP Nos. 16525 OF 2025

ARKES Engineering Services,
rep. by its Proprietor,
Retnmony Kandaswamy
No.19/2, Veeramamunivar Street, Ekkattuthangal,
Chennai-600 032.

Petitioner(s)

Vs

The Assistant Commissioner,
Guindy Assessment Circle,
South II Zone, Chennai South Division,
Chennai Commissionerate.

Respondent(s)

WP NO. 16529 of 2025

Willpower Engineering Services,
rep. by its Proprietor B.Srinivasan,
No.23, Indira Nagar Phase 1,
Paruthipattu, Tiruvallur-600 071

Petitioner(s)

Vs

The Assistant Commissioner,
Avadi Assessment Circle,
Avadi Zone, Tiruvallur Division,
Chennai-Outer Commissionarate.

Respondent(s)

PRAYER in WP No. 16525 of 2025
This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus to call for the respondent order dated 27.09.2022 in Reference Number:ZA330922234481Q and quash the same and consequently direct the respondent to revoke the cancellation of the GST registration of the petitioners firm.

PRAYER in WP No. 16529 of 2025
This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus to call for the respondent order dated 30.10.2023 in Reference Number:ZA331023252021H and quash the same and consequently direct the respondent to revoke the cancellation of the GST registration of the petitioners firm.

For Petitioner(s):
P. Suresh Babu (in both Wps.)
T. Suresh
S. Manimegala
Mohana D
For Respondent(s): Mr.V.Prasanth Kiran, GA(in both Wps.)

COMMON ORDER

Heard Mr.P.Suresh Babu, learned counsel for the petitioners and Mr.V.Prashant Kiran, learned Government Advocate (T), who takes notice on behalf of the respondents.

2.By consent of both parties, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

3.The petitioners are doing the business of supplying machines and appliances for testing metals and providing maintenance or repair service and related services. Both the petitioner firms were registered with State GST and Central Excise in the year 2021 and 2018 respectively vide GSTIN-33BVUPK5937P1ZM and GSTIN-33CCSPS5642C3ZC. While so, due to ill health and financial constraints, the petitioners were not able to file GST Returns within the stipulated period, which led to the issuance of a show cause notice dated 03.09.2022 and 22.08.2023, by the respondent for cancellation of Registration. The said notices were uploaded in the GST portal and the same went unnoticed by the petitioner. Thereafter, the respondent, vide orders dated 27.09.2022 and 30.10.2023, cancelled GST Registration of the petitioners since the petitioners failed to respond to the notices and due to non-filing of the Returns.

4.The learned counsel appearing for the petitioners relied upon a decision of this Court in the matter of '***Suguna Cut piece Centre versus The Appellate Deputy Commissioner (ST) (GST)"*** rendered under identical facts in W.P.Nos.25048, 25877, etc. of 2021. The learned counsel submitted that in the said Writ Petitions, this Court granted relief to taxpayers whose GST registrations were cancelled due to non-filing of returns, especially those affected by illness or COVID-19, by directing the Department to restore the registration, subject to certain conditions. The learned counsel prayed that similar orders may be passed in these Writ Petitions.

5.The learned Government Advocate appearing for the respondents, fairly acceded to the above and submitted that following the above decision, this Court also granted similar relief in several Writ Petitions including the Writ Petition in W.P.No.33227 of 2024.

6. Heard both the learned counsel and perused the records.

7. As the facts of the case in W.P.No.33227 of 2024 squarely apply to the facts of the present case, following the said order, the following directions are issued:

> i. The petitioners herein are directed to file returns for the period prior to the cancellation of registration, together with tax dues along with interest thereon and the fee fixed for belated filing of returns within a period of forty five (45) days from the date of receipt of a copy of this order.
>
> 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 the petitioners.
>
> iii. If any Input Tax Credit has remained unutilized, it shall not be utilised until it is scrutinized and approved by an appropriate or competent officer of the Department.

iv. Only such approved Input Tax Credit shall be allowed to be utilized thereafter for discharging future tax liability under the Act and Rules.

v. The respective petitioner 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.

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

viii. 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 the respective petitioner to file the returns and to pay the tax / penalty / fine.

ix. 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.

x. The restoration of the GST registration is subject to and conditional upon fulfilling the above conditions."

8. Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Dn/suk **08-05-2025**

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
To
1.The Assistant Commissioner,
Guindy Assessment Circle,
South II Zone, Chennai South Division,
Chennai Commissionerate.

2.The Assistant Commissioner,
Avadi Assessment Circle,
Avadi Zone, Tiruvallur Division,
Chennai-Outer Commissionarate.

N.MALA, J.

suk/dn

WP Nos. 16525 & 16529 of 2025

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