BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.6222 of 2025
and
W.M.P.(MD)Nos.4563 and 4564 of 2025

The Commissioner,
Bodinayakkanur Municipality,
No.01, Near GH, Munnar Road,
Bodinayakkanur,
Theni District. ... Petitioner

-vs-

1.The Deputy Commissioner (ST),
Office of the Deputy Commissioner of (ST) (Appeals),
GST Madurai & Tirunelveli,
Dr.Thangaraj Salai, Commercial Tax Building,
Madurai-625 002.

2.The Additional Commissioner (ST),
Office of the Assistant Commissioner (ST),
Bodinayakkanur Circle, Bodinayakkanur,
Theni-625 513. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the impugned order passed by the second respondent in Reference Number : ZA3303190829554, dated 26.03.2019 and the consequential order in Appeal of the first respondent in ARN No: AD331124021376K, dated 06.01.2025 and quash the same as illegal.

For Petitioner	:	Mr.M.Kannan
For Respondents	:	Mr.J.K.Jayaselan Government Advocate

ORDER

Heard learned counsel for the petitioner and learned Government Advocate for the respondents.

2. The petitioner is aggrieved by the impugned order dated 26.03.2019 bearing reference No.ZA3303190829554 passed by the second respondent and the impugned order dated 06.01.2025 bearing reference in Appeal No.AD331124021376K, passed by the first respondent.

3. By the impugned order dated 26.03.2019, the registration of the petitioner has been cancelled with effect from 01.03.2019, on account of non-filing of the Return. Aggrieved by the same, the petitioner filed an Appeal before the first respondent and the same was dismissed on the ground of limitation.

4. It is noticed that the issue has been squarely covered by this Court in ***Tvl.Suguna Cutpiece Center vs. The Appellate Deputy Commissioner (ST) (GST) and others* [(2022) 99 GSIR 386],** wherein this Court has held as follows:-

> *"221. While exercising jurisdiction, under Article 226 of the and etc. batch Constitution, the powers of the Court to do justice i.e., what is good for the society, can neither be restricted nor curtailed. This power under Article 226 can be exercised to effectuate the rule of law.*
>
> *......*
>
> *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 and etc. batch 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.

ix. The respondents shall take suitable steps by instructing GST Network, New Delhi to make and etc. batch 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. This decision has been followed in several cases by this Court. Hence, I do not wish to take any different view.

6. Under these circumstances, the impugned orders are set aside and the respondents are directed to restore the service tax registration subject to the petitioner complying with the conditions imposed in ***Tvl.Suguna Cutpiece Center*'s case** (cited supra). No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No **07.03.2025**
Index : Yes / No
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To:-

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VIVEK KUMAR SINGH, J.

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