



W.P.(MD) No.7300 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.7300 of 2023

Tvl.Sri Sastha Canteen,
Rep. by its Partner, M.Chelliah,
4/96, P.R.C. Colony,
Thanakkankulam Road,
Thirunagar, Madurai-625 006.

.. Petitioner

Vs.

1.The Commissioner of GST & Central Excise,
Central Revenue Buildings,
B.B.Kulam, Madurai-625 002.

2.The Superintendent,
Thirupparankundram Range,
Central Revenue Buildings,
Madurai-625 002.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 2nd respondent in Reference No.ZA330421145459N dated 13.04.2021 and quash same and consequently direct the respondents to revoke the cancellation of petitioner's GSTIN.33ADZFS3117J1ZN.



WEB COPY



W.P.(MD) No.7300 of 2023

For Petitioner : Mr.B.Veeramanikandan
For Respondents : Mr.R.Nandhakumar
Senior Standing Counsel
assisted by Ms.S.Raghavendre
Junior Standing Counsel

ORDER

This writ petition has been filed to quash the impugned order dated 13.04.2021 passed by the second respondent and direct the respondents to revoke the cancellation of GSTIN registration and restore the same.

2. It is the case of the petitioner that they have failed to file return for a continuous period of three months. Hence, the second respondent has cancelled the GST registration of the petitioner by order dated 13.04.2021 with effect from 18.03.2021. Aggrieved by which the petitioner is before this Court.

3. It is submitted by the learned counsel for the petitioner that due to health issues, the GST monthly returns were not filed continuously for a period of three months. Subsequently, the monthly returns until March,



W.P.(MD) No.7300 of 2023

WEB COPY

2021 were filed belatedly. Due to the above reasons, the petitioner was not able to file an appeal in time as stipulated under the Tamil Nadu Goods and Service Tax Act, 2017 against the cancellation of the registration.

4. In identical circumstances, this Court, in the case of ***Tvl.Suguna Cutpiece vs. Appellate Deputy Commissioner (ST) (GST) and others*** reported in ***2022 (2) TMI 933***, issued the following directions:

“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.



WEB COPY



W.P.(MD) No.7300 of 2023

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*



WEB COPY



W.P.(MD) No.7300 of 2023

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.”

The same has been consistently thereafter followed by this Court in various decisions, viz.,

a) ***M/s.Maaruthi Foundations Private Limited Vs Deputy Commissioner (ST) (FAC), reported in 2022 (5) TMI 405;***



W.P.(MD) No.7300 of 2023

WEB COPY

b) *J.Jayakrishnan Vs The Additional Chief*

Secretary/Commissioner of Commercial Taxes, Chennai reported in
2022 (7) TMI 1226;

c) *TVL.Jeyalakshmi Store represented by its Proprietor, Sivanu
Pandian Vs Commissioner of Commercial Taxes* reported in *2022 (7)
TMI 1275;* and

d) *M/s.Pearl and Company Vs The Commissioner of
Commercial Taxes* in W.P(MD)No.19127 of 2022.

5.In view of the fact that this Court has been consistently following the directions issued in the case of *Tvl.Suguna Cutpiece* referred *supra* and the Revenue Department has also accepted the said view as evident from the fact that no appeal has been filed in any of the matters, this Court intends to follow the above order of this Court.

6.In view of the same, this Court feels that the benefit extended by this Court in the earlier orders referred to above in *Suguna Cutpiece Centre's case* cited *supra*, may be extended to the Petitioner.



W.P.(MD) No.7300 of 2023

WEB COPY

7.This Writ Petition is allowed on the same terms mentioned in paragraph 229 of the order of *Suguna Cutpiece Centre* (cited *supra*). No costs.

10.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

- 1.The Commissioner of GST & Central Excise,
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- 2.The Superintendent,
Thirupparankundram Range,
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W.P.(MD) No.7300 of 2023

P.T.ASHA, J.

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W.P.(MD) No.7300 of 2023

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