IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 1991 OF 2023 (T-RES)

BETWEEN:

SRI. M. SATHYA MURTHY,
M/S. RESOLVE FACILITY MANAGEMENT SERVICES(I) PRIVATE LIMITED
REPRESENTED BY ITS DIRECTOR,
NO.13, GROUND FLOOR,
VENKATESHWARA NILAYA,
1ST CROSS, ASHWATHNAGARA,
MARATHALLI BRIDGE, BENGALURU - 560 037.
REGISTERED UNDER THE COMPANY ACT, 2013

...PETITIONER

(BY SRI. MARUTHI G B.,ADVOCATE)

AND:

Digitally signed by NARASIMHA MURTHY VANAMALA
Location: HIGH COURT OF KARNATAKA

THE SUPERINTENDENT OF CENTRAL TAX,
RANGE-B, EAST DIVISION-5 (DED5),
GST EAST COMMISSIONERATE,
BENGALURU-560071.

...RESPONDENT

(BY SRI. JEEVAN J. NEERALGI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER DATED 12/05/2022 BEARING REFERENCE

NO.ZA290522036969Z PASSED BY THE RESPONDENT MARKED AT ANNEXURE-A; TO DIRECT THE RESPONDENTS TO CONSIDER THE REQUEST LETTER DATED 10/12/2022 MARKED AT ANNEXURE-E FURTHER DIRECT TO RESTORE THE GST REGISTRATION OF THE PETITIONER.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is aggrieved by the order dated 12.05.2022 [Annexure-A], and by this order the petitioner's GST registration is cancelled. It is seen from the order of cancellation that the respondent, on perusal of the reply and the submissions made at the time of hearing, is of the opinion that the registration must be cancelled. The petitioner's case is that there is lack of application of mind and therefore arbitrariness in the cancellation of the registration by the impugned order.

The petitioner is categorical that he is not served with the Show Cause Notice which is purportedly sent to the consultants' e-mail ID; that he was completely dependent on his consultant for

filing monthly GST returns and he was under the *bonafide* impression that returns have been filed during the relevant period as GST liability is discharged; that the petitioner could not follow with the consultant because of his ill health.

Sri Maruthi G B, the learned counsel for the petitioner, submits that these circumstances demonstrate that the petitioner was not served with Show Cause Notice and the petitioner could not have participated in the personal hearing; nevertheless, registration is cancelled on the ground that the petitioner has submitted reply on 22.04.2022 and has made submissions at the time of personal hearing. He urges that the assertion that the petitioner is not served with the Show Cause Notice and he has not participated in the personal hearing remains indisputable.

The respondent has proceeded to cancel the registration on the ground that he has perused the

reasons offered in response to the Show Cause Notice and the submissions. As rightly pointed out by Sri. Maruthi G B, the learned counsel for the petitioner, non-application of mind stands out and therefore, this Court must interfere. Hence, the petitioner is allowed, and the order dated 12.05.2022 [Annexure-A] is quashed subject to the condition that the petitioner files returns within a period of four [4] weeks from the date of receipt of a certified copy of this order. Failing which, the cancellation order shall stand revived.

SD/-
JUDGE

AN/-