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HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION NO: 27071 OF 2022

Between:
M/s. Chenna Krishnama Charyulu Karampudi, Represented by its Authorized Signatory, Chenna Krishnama Charyulu Karampudi, Flat No. 504, Gayathri Nilayam, H.No.11-14-261/4/504, Chitra Layout, NTR Nagar, LB Nagar, Saroor Nagar, Rangareddy, Telangana-500074.

...PETITIONER

AND

1. The Additional Commissioner (Appeals-1), O/o. the Commissioner of Customs and Central Tax, Appeals-I, Hyderabad Commissionarate, Basheerbagh, Hyderapad-500004.
2. Superintendent of Central Tax, Saroor Nagar Range, Saroor Nagar GST Division, Rangareddy GST Commissionerate, Hyderabad

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the action of the respondents in confirming the Appeal of the 2nd Respondent in cancelling the GST registration certificate of the petitioner vide GST No.36AGUPK1851D1ZB, on suomoto is arbitrary, illegal and contrary to law and consequently set-aside the Appeal order dated 19.04.2022 of the 1st Respondent and order for Cancellation of Registration Dt. 22-01-2019 of the 2nd Respondent.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Suspend the orders of the Appeal order dated 19.04.2022 of the 1st respondent and direct the 2nd Respondent to Revive the GST Registration portal of the petitioner GST No.36AGUPK1851D1ZB, pending disposal of the above Writ Petition as otherwise the Petitioner will be put to severe loss and hardship.

Counsel for the Petitioner: SRI. VENKATRAM REDDY MANTUR

Counsel for the Respondents: SRI B. NARASIMHA SARMA

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE UJJAL BHUYAN

AND

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

WRIT PETITION No.27071 of 2022

ORDER: *(Per the Hon'ble Sri Justice Ujjal Bhuyan)*

Heard Mr. M. Venkatram Reddy, learned counsel for the petitioner, and Mr. B. Narasimha Sarma, learned counsel for the respondents.

2. By filing this petition under Article 226 of the Constitution of India petitioner seeks quashing of order-in-appeal dated 19.04.2022 passed by respondent No.1.

3. Petitioner is a proprietorship firm engaged in the business of carrying out works contract services. It is registered with the Goods and Services Tax (GST) authorities in the State of Telangana. By the order dated 22.01.2019, respondent No.2 cancelled registration of the petitioner under GST. Against this order of cancellation, petitioner preferred appeal before respondent No.1 assailing the legality and validity of the order dated 22.01.2019. By the order dated 19.04.2022, respondent

No.1 as the appellate authority has held that the appeal was filed beyond the period of extended limitation. Accordingly, the appeal was dismissed.

4. Hence, the writ petition.

5. On a query by the Court as to why petitioner has not approached the Goods and Services Tax Tribunal (GST Tribunal) under Section 112 of the Central Goods and Services Tax Act, 2017 (briefly, 'CGST Act' hereinafter), learned counsel for the petitioner submits that till date no GST Tribunal has been constituted.

6. We have perused the order dated 19.04.2022. This is an order passed by the first appellate authority under Section 107(1) of the CGST Act. As per subsection (1) of Section 107 of the CGST Act, limitation for filing appeal is three months from the date of communication of the order appealed against. Under subsection (4) of Section 107 of the CGST Act, the appellate authority may allow the appeal to be presented within a further period of one month, provided sufficient cause is shown by the appellant.

7. Though the lower appellate authority may be right in holding that while it may allow filing of an appeal beyond the limitation of three months for a further period of one month, therefore, by extension of limitation beyond the extended period of one month delay beyond the extended period of one month cannot be condoned, we are of the view that such a stand taken by respondent No.1 may adversely affect the petitioner. This is more so because respondent No.2 had *suo motu* cancelled the GST registration of the petitioner on the ground of non-filing of returns and as GST Tribunal has not been constituted under Section 109 of the CGST Act, petitioner would be left without any remedy.

8. We further find that the issue pertains to cancellation of GST registration of the petitioner. In the facts and circumstances of the case, it would be just and proper if the entire matter is remanded back to respondent No.2 to reconsider the case of the petitioner and thereafter to pass appropriate order in accordance with law.

9. In the light of the above and without expressing any opinion on merit, we remand the matter back to the file of respondent No.2 to consider the grievance expressed by the petitioner against cancellation of GST registration and thereafter pass an appropriate order in accordance with law. Needless to say, when the respondent No.2 hears the matter on remand, petitioner shall submit all the returns as per the statute.

10. Writ petition is accordingly disposed of.

11. Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SD/-P.PADMANABHA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

GB

SECTION OFFICER

To,

1. The Additional Commissioner (Appeals-1), O/o. the Commissioner of Customs and Central Tax, Appeals-I, Hyderabad Commissionarate, Basheerbagh, Hyderapad-500004.
2. The Superintendent of Central Tax, Saroor Nagar Range, Saroor Nagar GST Division, Rangareddy GST Commissionerate, Hyderabad
3. One CC to Sri Venkatram Reddy Mantur, Advocate [OPUC]
4. One CC to Sri B. Narasimha Sarma, Advocate [OPUC]
5. Two CD Copies
6. One Spare Copy

CHR
JM

HIGH COURT

DATED:27/06/2022



ORDER

W.P.No.27071 of 2022

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS