

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 25th DAY OF AUGUST, 2022

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION No.12897 OF 2022 (T-RES)

BETWEEN:

DEEPAK VASUDE ASRANI CHUGH HUF
2ND FLOOR, NO.19/9, F-201
JALAPRASAD APARTMENTS, NAGAPPA STREET
GUTTAHALLI, BENGALURU - 560 003.
REPRESENTED HEREIN BY ITS KARTA
MR. DEEPAK VASUDEV
SON OF BHAJAN LAL ASRANI VASUDEV
AGED 41 YEARS

...PETITIONER

(BY SRI. SANDEEP HUILGOL., ADVOCATE)

AND:

1. JOINT COMMISSIONER OF GST
APPEALS – II, BANGALORE
OFFICE OF THE COMMISSIONER OF CENTRAL TAX
TTMC, BMTc BUILDING, 4TH FLOOR,
DOMLUR, OLD AIRPORT ROAD
BENGALURU – 560 071.
2. SUPERINTENDENT OF CENTRAL TAX
RANGE AND -4, BENGALURU
OFFICE OF THE COMMISSIONER OF CENTRAL TAX
NORTH COMMISSIONERATE
HMT BHAVAN, NO.59, BELLARY ROAD
GANGANAGAR, BENGALURU – 560 032.

...RESPONDENTS

(BY SRI. JEEVAN J. NEERALGI., ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE IMPUGNED ORDER IN APPEAL DTD: 25.10.2021 BEARING GST A.NO.74/2021-22-AII (JC) OIA NO. 150/JC-AII/GSTIN/2021 DIN 2021105700000999A50 AND FILE NO. GAPPL/ADC/GSTP/1617/2021-APPEAL O/O COMMR-CGST-APPL-II-BENGALURU I/450809/2021(3) PASSED BY THE R-1 ANNEXURE- A AND ETC.

THIS W.P. COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

In this petition, petitioner has sought for the following reliefs:

- (i) *Setting aside the impugned Order-in-Appeal dated 25.10.2021 bearing GST A.No.74/2021-22 A-II(JC), OIA No.150/JC-AII/GSTN/2021, DIN 2021105700000999A50, and File No.GAPPL/ADC/GSTP/1617/2021-APPEAL-O/o COMMR-CGST-APPL-II-BENGALURU I / 450809/2021(3) passed by the 1st respondent (Annexure 'A');*
- (ii) *Setting aside the impugned order dated 17.07.2019 bearing Reference No.ZA290719056841Y passed by the 2nd Respondent (Annexure 'B');*
- (iii) *Directing the immediate restoration of the registration bearing No.29AAHHD0827K1Z6 of the petitioner under the GST Act with effect from 17.07.2019 vide Annexure – C dated 08.07.2018 and*
- (iv) *Pass such other or further orders as this Hon'ble Court may deem fit in the facts and circumstances of the case, and in the interests of justice and equity.*

2. Heard learned counsel for the petitioner and learned counsel for the respondents and perused the material on record.

3. In addition to reiterating the various contentions urged in the memorandum of petition and referring to the documents produced, learned counsel for the petitioner submits that on 17.07.2019, respondent No.2 cancelled the petitioner's GST registration, aggrieved by which, an appeal was preferred by the petitioner / appellant on 12.08.2021 along with an application requesting for condonation of the delay having regard to the prevailing Covid-19 pandemic. The said application having come up for consideration before respondent No.1 / Appellate Authority, on 25.10.2021, respondent No.1 proceeded to pass the impugned order rejecting the petitioner's appeal and refused to condone the delay and passed the impugned order, which is assailed by the petitioner in the present appeal.

4. In support of his contention, learned counsel for the petitioner places reliance upon the following decisions:

i) *Badiger Raghavendra Vs. The Assistant Commissioner of Commercial Taxes and others – W.P.No.12717/2021 (D.D.29.07.2021);*

ii) *Tahura Enterprise Vs. Union of India – R/Special Civil Application No.3442/2022 (D.D.30.03.2022) of the High Court of Gujarat.*

iii) *Aarcity Builders Private Limited and others Vs. Union of India and others – CWP 19029/2021 and connected matters (D.D. 19.12.2021) of the High Court of Punjab and Haryana*

5. Per contra, learned counsel for the respondents submits that there is no merit in the petition and the same is liable to be dismissed.

6. As rightly contended by the learned counsel for the petitioner, in the light of the decision of this Court and the decision of the Gujarat High Court and Punjab and

Haryana High Court referred to supra and in view of the fact that the petitioner has explained the delay in seeking revocation of the GST cancellation by contending that the same was due to Covid-19 pandemic and on account of bonafide reasons and sufficient cause, I am of the considered opinion that the Appellate Authority / respondent No.1 clearly committed an error in summarily rejecting the appeal filed by the petitioner and also rejecting the request to condone the delay in filing the appeal without assigning proper, valid and cogent reasons and that the same deserves to be set aside. It is also relevant to state that while passing the impugned order, respondent No.1 / Appellate Authority has failed to consider and appreciate the notification issued by the Central Government at Annexure – Q whereby the time limit for making application and appeal seeking revocation of cancellation of registration was extended upto 30.09.2021 and the petitioner having filed an appeal on 12.08.2021, was entitled to the benefit of said notification and failure to appreciate this has resulted in erroneous conclusion. Further, in view of the fact that the petitioner has offered

valid and proper explanation as stated supra for not seeking revocation of the cancellation of the registration within the prescribed period, it is also necessary to set aside the cancellation order (Annexure – B) and restore the GST registration in favour of the petitioner.

7. In the result, I pass the following:

ORDER

- (i) Petition is hereby ***allowed***.
- (ii) The impugned orders at Annexure – A dated 25.10.2021 passed by respondent No.1 and Annexure – B dated 17.07.2019 passed by respondent No.2 are hereby quashed.
- (iii) Respondent No.2 is directed to restore the GST registration of the petitioner as expeditiously as possible and at any rate within a period of four weeks from the date of receipt of a copy of this order.

**Sd/-
JUDGE**

SV