

Case :- WRIT TAX No. - 1222 of 2022

Petitioner :- M/S Abhishek Construction

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Pranjal Shukla

Counsel for Respondent :- A.S.G.I., Parv Agarwal

Hon'ble Rohit Ranjan Agarwal, J.

Heard Sri Pranjal Shukla, learned counsel for the petitioner and Sri Parv Agarwal, learned counsel for the respondent nos. 2 and 3.

This writ petition assails the order passed by the Assistant Commissioner, CGST, Sector-3, Gautam Budh Nagar cancelling the registration of the petitioner as well as the first appellate authority dismissing the appeal on the ground that the appeal filed by the petitioner was time barred.

Facts, in nutshell, are that petitioner who is engaged in the business of manufacturing and sales of machinery part had filed its return till October 2019, however, the department had issued a show cause notice which remain unattended by the assessee/petitioner. The registration of the petitioner's firm was cancelled on 24.10.2019. An appeal under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter called as the 'Act of 2017') was filed on 09.06.2022. The first appellate authority dismissed the appeal on the ground that the limitation for filing the appeal as provided under Section 107 of the Act of 2017 was 90 days and the last date was 23.01.2020.

Learned counsel for the petitioner has relied upon the decision of the Apex Court rendered in suo moto proceedings in Writ-C No. 03 of 2020 wherein the Apex Court had directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation. The said order is dated 10.01.2022. According to learned counsel for the petitioner the period of limitation will start from 01.03.2022 and 90 days expired on 29.05.2022 and there was grace period of one month for filing the appeal and petitioner has filed the appeal on 09.06.2022 which was in time. Reliance has been placed upon the decision of coordinate Bench of this Court in Writ Tax No. 76 of 2022 (M/S J.K. Infratech Vs. Additional Commissioner and another) and Writ Tax No.1004 of 2022 (M/S Singh Group Vs. State of U.P. and others).

Sri Parv Agarwal, learned counsel for the respondents, could

not dispute the legal proposition and law laid down by the Apex Court in suo moto proceedings.

Having heard learned counsel for the respective parties and perusing the material on record, I find that by order of Apex Court dated 10.01.2022 the period of limitation would start running from 01.03.2022 and, as such, appeal filed by the petitioner was well within time as provided under 107 of the Act of 2017. In view of the said fact the order passed by the first appellate authority on 29.07.2022 is hereby set-aside. Appellate authority is directed to decide the appeal afresh on merits within a period of one month from the date of production of certified copy of this order.

Writ petition stands partly allowed.

Order Date :- 9.12.2022

Shekhar