

Court No. - 8

Case :- WRIT TAX No. - 185 of 2022

Petitioner :- Acambis Helpline Mamagement Pvt. Ltd. Thru. Director
Tauqueer Ahmad

Respondent :- Union Of India Thru. Prin. Commissioner, Central Gst Lko.
And 2 Others

Counsel for Petitioner :- Raghvendra P. Singh, Satyendra Prakash Singh

Counsel for Respondent :- Dipak Seth

Hon'ble Alok Mathur, J.

1. Heard learned counsel for petitioner as well as Sri Dipak Seth, learned counsel for respondents.
2. The petitioner has challenged the order dated 03.01.2022 whereby registration of the petitioner has been cancelled in exercise of the power under Section 29 of CGST Act as well as order dated 29.11.2022 where the appeal preferred by the petitioner has been dismissed.
3. It has been submitted by learned counsel for petitioner that petitioner is registered with GST authorities and is involved in the business of man power supply. It is submitted that petitioner was served with a show cause notice dated 02.12.2021 wherein it was stated that petitioner has not furnished his return for a contentious period of six months under Section 39 of the Central Goods and Services Tax Act and was called upon to file the reply within 30 days as to why his registration be not cancelled.
4. It is stated that petitioner could not furnish reply to the show cause notice because of health issues of his mother and also on account of the fact that the financial condition of the petitioner was extremely poor. It is further stated that due to the fact that the petitioner did not file any response to the show cause notice, the impugned order dated 03.01.2022 was passed cancelling registration which is quoted as under:-

""Reference Number: ZA0901220061538

Date: 03.01.2022

To

ACAMBIS HELPLINE MANAGEMENT PRIVATE LIMITED

*F1/003, ANSAL API, NEAR JAIPURIYA COLLAGE, AHAMMAU, LUCKNOW, Lucknow,
Uttar Pradesh 226002*

GSTIN/UIN:09AAOCA5342C2ZQ

Application Reference No. (ARN): AA0912210069784

Dated: 02/12/2021

Order for Cancellation of Registration

This has reference to your reply dated 02/01/2022 in response to the notice to show cause dated 02/12/2021 Whereas the undersigned has examined your reply and submissions made at the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s).

1. In absence of any reply of the notice, the registration is cancelled.

The effective date of cancellation of your registration is 03/01/2022.

Determination of amount payable pursuant to cancellation:

Accordingly, the amount payable by you and the computation and basis thereof is as follows:

The amounts determined as being payable above are without prejudice to any amount that may be found to be payable you on submission of final return furnished by you.

You are required to pay the following amounts on or before failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

Head	Central Tax	State Tax/ UT Tax	Integrated Tax	Cess	
Tax	0	0	0	0	0
interest	0	0	0	0	0
Penalty	0	0	0	0	0
Others	0	0	0	0	0
Total	0.0 0.0	0.0	0.0	0.0	0.0

Place: RANGE-I

Date: 03/01/2022

UJJWAL SRIVASTAVA
Superintendent
Lucknow Sector - 19"

5. The appeal preferred by the petitioner against the said order was also dismissed on the ground of limitation.

6. Learned counsel for petitioner has submitted that though the petitioner has a statutory remedy of appeal before the GST Tribunal but the same not having been constituted for the State of Uttar Pradesh, he has preferred present writ petition.

7. Learned counsel for petitioner has further submitted that the appeal has been dismissed beyond the period of limitation as such doctrine of meager would not apply and the petitioner is entitled to seek judicial review of the order dated 03.01.2021 on the ground that the same is non-speaking order.

8. He has further referred to the judgment of this Court passed in **Writ Tax No. 147 of 2022 (M/S Chandrasen, Sarda Nagar, Lucknow Vs. Union of India)** where it has been held that the order of cancellation of registration or any other order passed either on the administrative side or on judicial side is without any reason or application of mind and hence such an order would not stand the test of scrutiny under Article 14 of the Constitution of India.

9. It is this Court further noticed that no reason whatsoever in the impugned order for cancelling the registration of the petitioner. The only reason stated that the petitioner did not respond to the show cause notice. This Court is of the considered view that even in case that the petitioner did not given response to the show cause notice it was incumbent to the competent authority to consider the fact of case and come to the conclusion that the facts necessitate cancelling of the registration of the petitioner in exercise of powers under Section 39 of the CGST Act.

10. In light of the above, the impugned order dated 03.01.2022 is illegal and hence in the aforesaid circumstances, the same is set aside. Accordingly, the writ petition is **allowed**. The matter is remitted to the adjudicating authority and is further directed to the petitioner to file his reply to show cause notice dated 02.12.2021 within three weeks for today. In case, the petitioner files his reply along with certified copy of this order, the respondent shall proceed to pass a fresh order in accordance with law.

(Alok Mathur, J.)

Order Date :- 15.12.2022

Ravi/