

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 6208 of 2024

M/s. Bokna Raiyat Rojgar Committee, a Partnership firm, having its principal business of place Bokna, Bada Zamda, P.O. & P.S. Bada Zamda, District West-Singhbhum PIN-833221, (Jharkhand) through its authorized signatory namely, Chayan Mallick, aged about 40 years, son of Sufal Mallick, resident of juri, near Durga Mandir, P.O. Juri, P.S. Potka, District East Singhbhum (Jharkhand).Petitioner

Versus

1. The Union of India, through the Principal Commissioner, Central Goods and Service Tax Act and Central Excise, Ranchi having its office at Revenue Building, Main Road, P.O. G.P.O., P.S. Chutia, District Ranchi-834001 (Jharkhand);
2. The Commissioner, Central Goods and Service Tax Act and Central Excise (Appeal), Ranchi having its office at Grand Emerald 2nd and 3rd Floor, Ashok Nagar, Main Road, P.O. Doranda, P.S. Argora, District Ranchi-834002 (Jharkhand);
3. The Superintendent, CGST and Central Excise, Chaibasa Rural Range, Division-I Jamshedpur, having its office at Jamshedpur, P.O. & P.S. Jamshedpur, District East-Singhbhum (Jharkhand).Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Ranjeet Kushwaha, Adv.
For the Respondents : Mr. Amit Kumar, Sr.S.C. CGST
Mr. Anurag Vijay, Jr.S.C. CGST
Mr. Srijan, AC to Sr.S.C., CGST

C.A.V. ON: 06.12.2024

PRONOUNCED ON: 17/12/2024

Per Deepak Roshan, J.

1. The instant writ application has been preferred by the petitioner for quashing and setting aside the order in Appeal No.24/CGST/JSR/2023-24 dated 26.02.2024 (Annexure-6),

passed by Additional Commissioner (Appeal) and consequential summary of the demand after issue of order by the Appellate Authority dated 26.02.2024 as contained in Form GSTAPL-04 (Annexure-6/1) issued by Additional Commissioner (Appeal) wherein the appeal preferred by petitioner has been rejected on the ground of being filed after expiry of period of limitation as prescribed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter for short “CGST Act”).

2. The petitioner has further prayed quashing and setting aside the order for cancellation of registration dated 12.05.2022 as contained in Form GST REG-19 (Annexure-4), passed by 3rd respondent, wherein GST registration certificate of the petitioner has been cancelled on the ground that petitioner failed to furnish the returns for a continues period of Six months.

3. The petitioner has further prayed for a direction upon the respondent authorities to revoke the cancellation of petitioner’s GSTIN Registration No.20AAWFB4560C1ZQ immediately, as due to cancellation of Registration Certificate of the petitioner, its business has come to stand and still position.

4. The brief fact of the case is that the petitioner is a partnership firm engaged in the business of transportation (loading and unloading services) and after coming of Goods and

Services Act regime, it obtained registration certificate in Form GSTREG-06.

The case of the petitioner is that though, initially, he was regularly filing its return under the GST Act, however, from April, 2022 to September, 2022 service recipients of the petitioner firm were not releasing its bill due to which the firm was adversely affected.

5. A show cause notice was issued to the petitioner on 26.03.2022 under Form GSTREG-17/31 on the ground that the petitioner had not filed its return for a continuous period of six months. On 07.04.2022, petitioner filed its reply, however, the impugned order has been passed cancelling the registration of the petitioner under Section 29 of the CGST Act.

Thereafter, petitioner filed an appeal after the period of limitation of three months and accordingly, the appeal was also rejected vide appellate order dated 26.02.2024.

6. Learned counsel for the petitioner submits that though initially, he was filing its return regularly through its accountant, however, his business was adversely affected due to non-releasing of bills by the recipient of the petitioner firm and only due to that reason he could not file the returns as mandated under the Act.

Learned counsel further submits that though he filed a reply to the show cause notice, but the same was not considered and impugned order has been passed on 12.05.2022. He further contended that due to medical reasons, petitioner could not take part in day-to-day business activities and accordingly, it could not file the statutory appeal within the period of limitation and the appellate authority has rejected the appeal only on the ground of limitation and has not decided the same on merit; as such, the impugned order should be quashed and set aside.

7. Learned counsel for the respondents supports the impugned orders and submits that there is no perversity or illegality in the order of cancellation of GST registration and also the appellate order.

8. Having heard learned counsels for the parties, it appears that a show cause notice was issued to the petitioner (Annexure-3) for not filing returns for a continuous period of six months. Thereafter, the petitioner duly filed its reply on 07.04.2022, however, the same was not considered for the reasons mentioned in the order for cancellation of registration (Annexure-4). Thereafter, petitioner, after a lapse of almost 17 months from the date of passing of impugned order of cancellation of registration filed an appeal and the appellate authority rejected the appeal on the ground of limitation.

9. It appears that under Section 107 of CGST Act, 2017, there is a period of limitation of 3 months prescribed, however, the petitioner, as stated hereinabove, filed the appeal not only beyond the period of limitation of few days; rather he filed the application after a delay of almost 17 months and no reasons have been assigned.

Even otherwise, since specific period has been enshrined in the statute itself, the same cannot be condoned. Thus, we are having no hesitation in holding that the petitioner Firm is not entitled for any relief on the ground of being lethargic in approach, inasmuch as, on the one hand, the petitioner did not file its return for a continuous period of six months and on the other hand, petitioner-Firm filed appeal before the appellate authority after a delay of almost 17 months which is admittedly beyond the period of three months for filing appeal as prescribed under Section 107 (1) of the CGST Act, 2017.

10. At this stage, it is also necessary to indicate that Section 107 of CGST Act, 2017 clearly stipulates the timing for filing appeal of three months and if the appellate authority is satisfied that the assessee was prevented by sufficient cause for presenting the appeal within the aforesaid period of three months, then, he may allow a further period of one month.

11. At the cost of repetition, since the appeal has been filed

after a delay of almost 17 months; as such, neither there is any perversity in the order of cancellation of GST registration; nor is there any necessity for interference with the appellate order, inasmuch as, the appeal has been filed beyond the statutory period of limitation.

12. Accordingly, the instant writ application stands dismissed. However, there is no order to cost.

(M. S. Ramachandra Rao, C.J.)

(Deepak Roshan, J.)

Jharkhand High Court

Dated:-17/12/2024
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