

Case :- WRIT TAX No. - 319 of 2022

Petitioner :- M/S Gaurav Trading Company

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Pranjal Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Rohit Ranjan Agarwal,J.

Heard Sri Pranjal Shukla, learned counsel for the petitioner and Sri A.C. Tripathi, learned Standing Counsel for the State.

The petitioner before this Court, who was registered under the Goods and Service Tax Act, 2017 (hereinafter referred to as the 'Act of 2017'), was issued a show cause notice for cancellation of registration on 27th November, 2020. The said notice remained unreplied by the petitioner, pursuant to which the order for cancellation of registration was passed by the Taxing Authority on 7.12.2020. An application for revocation of cancellation of registration was preferred by the petitioner but the same was rejected by order dated 26.4.2021. Aggrieved by the order of rejection of the application for revocation of cancellation of registration, an appeal was preferred by the petitioner before the First Appellate Authority. The First Appellate Authority on 17.11.2021 has rejected the appeal on the ground that the counsel for the petitioner on three dates has not appeared and pressed the appeal and in view of Section 107(9) of the Act of 2017 only three adjournments can be granted and thereafter the First Appellate Authority proceeded to pass an *ex parte* order rejecting the application.

Learned counsel for the petitioner has relied upon a judgment of the coordinate Bench of this Court in the case of **M/s Ram Krishna Garg Supplier vs. State of U.P. and others, Writ Tax No.1064 of 2021, decided on 15.7.2022**. According to the learned counsel, the notice was issued under Section 29(2)(a) of the Act of 2017 while the registration has been cancelled on the strength that bogus transaction has been entered between the petitioner and supplier firm under Section 74 of the Act.

Learned Standing Counsel while opposing the writ petition has submitted that no ground has been taken by the appellant before the First Appellate Authority and the First Appellate Authority was left with no option but to proceed and decide the appeal in absence of counsel for the appellant.

I have heard respective counsels for the parties and perused the

This Court finds that by ex parte order the first appeal filed by the petitioner has been dismissed as he has failed to appear before the authority on 6.4.2021, 24.9.2021 and 2.11.2021. Taking a lenient view, this Court directs the Appellate Authority to reconsider the appeal of the petitioner on merits after hearing the counsel for the petitioner and decide the same within a period of one month from the date of production of certified copy of this order. This Court further directs that the petitioner's counsel shall remain present on the date fixed by the First Appellate Authority and shall argue the matter on merits.

In view of the said fact, the writ petition stands **disposed of**.

Order Date :- 6.12.2022

SP