



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 10<sup>TH</sup> DAY OF MARCH, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE B M SHYAM PRASAD**

**WRIT PETITION NO. 25419 OF 2022 (T-RES)**

**BETWEEN:**

M/S KETAMARANAHALLI MARAPPA  
VENKATESHMURTHY  
A SOLE PROPRIETARY CONCERN  
REPRESENTED BY MR K M VENKATESH MURTHY  
AGED ABOUT 59 YEARS  
S/O VENKATESH  
RESIDING AT NO.486  
WEST OF CORD ROAD, 2<sup>ND</sup> STAGE  
BASAVESHWARA NAGAR  
BENGALURU-560086.

...PETITIONER

(BY SRI. SKANDA KUMAR, ADVOCATE FOR  
SRI. ANISH P BHOJANI.,ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY JOINT SECRETARY  
MINISTRY OF FINANCE DEPARTMENT OF  
REVENUE ROOM NO.46  
NORTH BLOCK, NEW DELHI-110001.



2. ADDITIONAL COMMISSIONER (APPEALS) MYSURU  
OFFICE OF THE COMMISSIONER OF  
CENTRAL TAX (APPEALS) S-1  
AND S-2 VINAYA MARGA  
SIDDHARTHA NAGAR  
MYSURU-570011.
3. SUPERINTENDENT OF CENTRAL TAX  
RANGE AWD-3 WEST  
COMMISSIONERATE  
BENGALURU  
BMTc BUILDING  
FIRST FLOOR  
BANASHANKARI  
BENGALURU-560070.

...RESPONDENTS

(BY SRI.JEEVAN J NEERALAGI., ADVOCATE FOR R2 &  
R3; SRI. MADANAN R PILLAI, CSG FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLE  
227 OF THE CONSTITUTION OF INDIA PRAYING TO  
QUASHING THE ORDER DATED 27.09.2021 PASSED BY  
THE R3 BEARING REFERENCE NO. ZA290921236670E  
(ANNEXURE A); QUASHING THE ORDER DATED  
12.10.2022 PASSED BY THE ADDL COMMISSIONER  
(APPEALS), MYSURU BEARING REFERENCE - ORDER-IN  
- APPEAL NO. MYS-SSP- ADC/ JC(A) 48 TO 23-2022-23  
GST (ANNEXURE B).

THIS PETITION, COMING ON FOR PRELIMINARY  
HEARING IN B GROUP, THIS DAY, THE COURT MADE  
THE FOLLOWING:



**ORDER**

The petitioner is aggrieved by the order dated 27.09.2021 [Annexure-A], and by this order the petitioner's GST registration is cancelled. It is seen from the order of cancellation that the third respondent, on perusal of the reply and the submissions made at the time of hearing, is of the opinion that the registration must be cancelled, and this is despite recording that there is no response to the show cause notice dated 07.09.2021.

2. Sri. Skanda Kumar, the learned counsel for the petitioner, relying upon these circumstances contends that there is lack of application of mind and therefore arbitrariness in the cancellation of the registration by the impugned order. He further submits that the proprietor as also his family members had to go through a lot of health turmoil between 01.03.2021 and 12.10.2021 [the relevant period] and as such *bona fides* are also pleaded. The petitioner for want of notice could not bring forth



these circumstances. The petitioner's appeal as against the order dated 27.09.2021 is rejected on the ground that it is filed beyond four months that is permissible under the provisions of Sections 107(1) and 107(4) of the Central Goods and Services Tax Act, 2017.

3. Sri Jeevan J Neeralagi and Sri Madanan R Pillai, the learned counsels for the respective respondents, submit that the petitioner cannot have any grievance with the appellate authority's order refusing to condone the delay in view of the fact that the statute does not permit condonation of delay which is beyond four months, and the petitioner, who pleads *bona fides* relying upon health reasons, has not placed any circumstance and the failure to place on record the documents would undermine his case that it was constrained because of health reasons of its proprietor and his family members.



4. However, what remains salient is the fact that the third respondent has proceeded to cancel the registration on the ground that he has perused the reasons offered in response to the Show Cause Notice and the submissions during the personal hearing notwithstanding the fact that the petitioner, who contends that it was not served with the notice dated 07.09.2021, admittedly has not filed any response or participated in any hearing. As rightly pointed out by Sri. Skanda Kumar, the learned counsel for the petitioner, non-application of mind stands out and therefore, this Court must interfere.

Hence, the petitioner is allowed, and the order dated 27.09.2021 [Annexure-A] is quashed subject to the condition that the petitioner files returns within a period of four [4] weeks from the date of receipt of a certified copy of this order. Failing which, the cancellation order shall stand revived. Insofar as the petitioner's grievance as against the order dated



12.10.2022 [Annexure-B] in appeal, in view this Court's finding as against the order dated 27.09.2021 [Annexure-A], the same stands disposed of as not surviving for consideration.

**SD/-  
JUDGE**

nv