



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 4985 OF 2023 (T-RES)

BETWEEN:

UMMER FAROOQ
SON OF ANWAR,
AGED ABOUT 29 YEARS
NO. 13, EWS BEEDI COLONY,
HALEEMNAGAR,
BANNIMANTAP,
MYSURU - 570 015.

...PETITIONER

(BY SRI. SHREEHARI KUTSA, ADVOCATE)

AND:

1. SUPERINTENDENT OF CENTRAL TAX,
LGSTC - 200, MYSURU
BAMBOO BAZAR RANGE,
VINAYAMARGA,
SIDDHARTHA NAGAR,
MYSURU - 570011
THE PROPER OFFICER
UNDER THE
CGST/KGST ACT, 2017.

2. ADDITIONAL COMMISSIONER
OF CENTRAL TAX
BAMBOO BAZAR DIVISION,
GST COMMISSIONERATE



GST BHAVAN, VINAYAMARGA,
SIDDHARTHA NAGAR,
MYSURU - 570 011
AN AUTHORITY UNDER
THE CGST/KGST ACT, 2017

...RESPONDENTS

(BY SRI.JEEVAN J. NEERALGI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE DIGITALLY SIGNED SHOW CAUSE NOTICE IN FORM GST-REG-17/31 FOR CANCELLATION OF REGISTRATION ISSUED UNDER SECTION 29 OF CGST ACT, 2017 DATED 01.11.2022 BEARING REFERENCE NO.ZA291122002124A AND ISSUED BY THE RESPONDENT NO. 1 AND ENCLOSED AS ANNEXURE-C; TO QUASH THE DIGITALLY SIGNED ORDER OF CANCELLATION OF REGISTRATION ISSUED IN FORM-GST-REG-19 UNDER SECTION 29(2)(A) OF CGST ACT, 2017 DATED 08.12.2022 BEARING REFERENCE NO.ZA291222027620X AND ISSUED BY THE RESPONDENT NO. 1 AND ENCLOSED AS ANNEXURE-D.

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



ORDER

The petitioner has impugned the order dated 08.12.2022 [Annexure-D] issued under Section 29[2][a] of the Central Goods and Services Tax Act, 2017 [for short, 'CGST Act'] canceling the petitioner's GST registration. The petitioner has alleged *inter alia* that the impugned order of cancellation is in violation of principles of natural justice. As such, Sri. Shreehari Kutsa, the learned counsel for the petitioner, and Sri. Jeevan J Neeralgi, the learned counsel for the respondents, are heard for final disposal of the petition.

2. The first respondent has issued notice dated 26.10.2022 informing the petitioner that the petitioner has availed input tax credit for different transactions with entities as mentioned in such notice but the registration of such entities have been either cancelled or suspended and hence, the petitioner must furnish documents in support of the input tax credit. The respondent has afforded five



days to file such documents. On 01.11.2022, the first respondent has issued Show Cause Notice for cancellation of the petitioner's GST registration. The petitioner, on receipt of such Show Cause Notice, has appeared before the first respondent and sought for time.

3. Thereafter, the first respondent on 08.12.2022 has issued the impugned order canceling the petitioner's GST registration on the ground that the petitioner '*has not reversed the disputed input tax credit with interest and penalty*'. The petitioner thereafter has filed an application with the first respondent for revocation of the cancellation contending that all of his transactions with the suppliers for the value of more than Rs.10,000/- is made only through banking transactions. If there is any default by a supplier who has furnished GST numbers, the petitioner cannot be made liable and that would be contrary to the provisions of Section 16



of the GST Act, 2017 which contemplates only four conditions to claim input tax credit. This application is pending consideration.

4. Sri. Shreehari Kutsa submits that with the issuance of the notice dated 26.10.2022, the petitioner is allowed only four days time to produce the documents and therefore, with the service of Show Cause Notice dated 01.11.2022, the petitioner has appeared before the first respondent on 09.11.2022 and has sought for time. The first respondent has issued the impugned order before the petitioner could furnish his bank documents and other records to demonstrate that all his transactions are supported by proper invoices, e-way bills and bank records. As such, the petitioner is obviously denied due opportunity to show cause against the cancellation of the GST registration.



5. Sri. Jeevan J Neeralgi is heard in the light of the aforesaid submissions. It is obvious that at the first instance, the petitioner was granted four days to file the documents, and on the second instance, when the petitioner appeared before the first respondent on 09.11.2022 after the Show Cause Notice dated 01.11.2022, the petitioner is permitted time to produce documents. However there is nothing on record to indicate that any date was specified before which the petitioner should have furnished the documents to show cause against cancellation.

6. The petitioner relies upon business history of over twenty one years with good business practices and a set of propositions to show cause against cancellation of the GST registration. In the circumstances of the case, the lack of opportunity cannot be disputed and the petitioner's *bonafides* could also be discerned. Hence, this Court is of the view that the petition must be preferred in part



quashing the impugned order of cancellation of GST registration restoring the proceedings for reconsideration by the first respondent. This Court must also observe that all contentions are left open to be considered by the first respondent strictly in accordance with law. Therefore the following:

ORDER

The petition is allowed in part quashing the impugned order of cancellation of GST registration dated 08.12.2022 [Annexure-D] restoring the proceedings for reconsideration by the first respondent. The petitioner without any further Notice shall appear before the first respondent on 27.04.2023.

**SD/-
JUDGE**

AN/-