

Court No. - 38

Case :- WRIT TAX No. - 1004 of 2022

Petitioner :- M/S Singh Group

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

Counsel for Petitioner :- Shubham Agrawal, Anand Shankar Dubey

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh, J.

1. Heard Sri Shubham Agrawal, learned counsel for the petitioner and learned Standing Counsel for the State.

2. Present writ petition has been filed against the order dated 31.03.2022 passed by the first appellate authority whereby the said authority rejected the appeal filed by the petitioner against the order dated 17.09.2021, cancelling the petitioner's registration under the Uttar Pradesh Goods & Services Tax Act, 2017 (hereinafter referred to as the 'Act'). The appeal was dismissed as time barred, treating the date of the order impugned therein to be 11.09.2019 whereas undisputedly, the date of filing the appeal by the petitioner is 18.09.2021. In absence of Tribunal being constituted, the writ petition has been entertained.

3. Learned counsel for the petitioner states, even if the date of the order cancelling the petitioner's registration is taken to be 11.09.2019 still the first appeal filed by the petitioner on 18.09.2021 was well within time. He has placed reliance on order no.1 of 2020 dated 25.06.2020 issued by the Ministry of Finance and Notification dated 29.08.2021 issued under Section 168A of the Central Goods and Services Tax Act, 2017 as also an earlier order of this Court in **M/s J.K. Infratech Vs Additional Commissioner & Another (2022) UPTC (111) 731.**

4. Thus, it has been submitted, the period of limitation to seek revocation of order cancelling a registration was generally placed in abeyance up to 31.08.2021. The assessee was permitted to file an application seeking revocation of order dated 11.09.2019, up to 30.09.2021 - assuming that period of limitation to have not lapsed. That principle should be applied to appeal proceedings as well.

5. On the other hand, learned Standing Counsel would submit, no benefit has been granted with respect to filing of appeals. Therefore, period of limitation has to be strictly construed.

6. Having heard learned counsel for the parties, since the facts are not in dispute and they are self apparent from the perusal of the order of the appellate authority and the original authority and since the petitioner is not contesting the date of the original order, the petition is being disposed of, at this stage without calling for any counter affidavit.

7. Statutory remedies whether provided by way of filing application to recall an order or appeal remedy have to be real and available to the citizens who may be aggrieved by any order passed by a statutory authority.

8. Once the Government exercised its powers and reached a satisfaction (that there were defects on the common portal with respect to service of orders) and, provided relaxation of limitation, by suspending the period of limitation with respect to orders passed up to 12 June, 2020 and placed the date of any order passed up to that date, to be 31.08.2020 (on

deemed basis) and further since the Government Notification dated 29.08.2021 suspended the period of limitation to file revocation applications for the period 01.03.2020 to 31.08.2021, it may never have been said that such an application if filed by the petitioner within the extended period of limitation, on 18.09.2021, would have been beyond time.

9. That being the intent of the Government to grant relaxation of limitation with respect to an order for cancellation of registration, it would defy plain logic to restrict that benefit to proceedings for revocation on such orders and to not extend the same to appeal proceedings. That construction if made, would give rise to an absurd situation. There would exist two dates of order cancelling a registration - one for the purpose of filing an application to revoke that order and another to file appeal there against.

10. The reason for relaxation of limitation being generic and external to the nature of remedies available under the Act - whether by way of revocation application or by way of appeal and, the relaxation of limitation being founded on defect or difficulty in service of order to be impugned in such proceedings, that relaxation of limitation would apply to both remedies.

11. It is so, because it is a matter of common knowledge that such relaxation was granted in the initial stages of implementation of GST regime, primarily for reason of difficulties experienced by all stake holders, in the working of the common portal.

12. Later, relaxation was also granted for mixed reasons including COVID circumstances. Here, it may not be forgotten, under various orders passed by this Court and the Supreme Court, the period of limitation to file appeals etc. was suspended from 15.03.2020 to 28.02.2022.

13. In such circumstances, the appellate authority has clearly erred in rejecting the appeal as time barred. The order dated 31.03.2022 is set aside and the matter is remitted to the appellate authority to pass a fresh orders, strictly in accordance with law, treating the appeal filed by the petitioner to be within limitation.

14. Accordingly, the writ petition is **allowed**.

Order Date :- 28.7.2022
S.Chaurasia