

THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

W.P.No. 38271 of 2022

ORDER: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Ms. K.Uma, learned counsel for the petitioner; Mr. B.Narsimha Sarma, learned counsel for respondent No.1; Mr. K.Raji Reddy, learned Senior Standing Counsel, Commercial Tax, for respondent No.2; and Mr. B.Mukherjee, learned counsel for respondent No.3.

2. By filing this petition under Article 226 of the Constitution of India, petitioner seeks quashing of the order dated 26.11.2019 passed by respondent No.1 cancelling the Goods and Services Tax (GST) registration of the petitioner.

3. Petitioner is a partnership firm engaged in the business of providing horticulture and nursery related services to M/s. Nuclear Fuel Complex, Hyderabad. Petitioner is registered under the Central Goods and Services Tax Act, 2017 (briefly 'the CGST Act' hereinafter) as well as under the Telangana Goods and Services Tax Act, 2017 (briefly 'the TGST Act' hereinafter). GST registration

certificate was issued to the petitioner on 28.07.2017 bearing registration No.GSTIN 36ACNFS1432MIZR.

4. On the ground that petitioner had not filed all the GST returns, a showcause notice dated 14.11.2019 was issued by respondent No.1 to the petitioner to which petitioner submitted reply on 23.11.2019. However, the reply of the petitioner was not accepted whereafter, respondent No.1 passed the order dated 26.11.2019 cancelling the GST registration of the petitioner on the ground that petitioner had not filed all the GST returns.

5. Learned counsel for the petitioner submits that against the order dated 26.11.2019 petitioner could not file the appeal as provided under Section 107 of the CGST Act because of a surgery which the Managing Partner- Mr. K.Isreal had to undergo; he had undergone spinal surgery on 06.04.2020 following consistent ill-health; because of failure of the spinal surgery, blood circulation to both his legs had stopped as a result of which he suffered from gangrene for which both his legs had to be amputated above the knee level.

6. It may be mentioned that the other partner of the petitioner is the wife of the managing partner himself, who because of the health condition of her husband could not devote much attention to business dealings of the petitioner. It is under such circumstances that the present writ petition has been filed seeking the relief as indicated above.

7. After hearing learned counsel for the parties and on due consideration, we are of the view that it would meet the ends of justice if the matter is remanded back to respondent No.1 for taking a fresh decision in accordance with law.

8. Accordingly, we set aside the order dated 26.11.2019 passed by respondent No.1 and remand the matter back to the file of respondent No.1 to consider the case of the petitioner against cancellation of GST registration afresh and thereafter pass appropriate order in accordance with law. Needless to mention that while passing such order, respondent No.1 shall give due opportunity of hearing to the petitioner.

9. The above exercise shall be carried out within a period of two months from the date of receipt of a copy of this order. Further, it would be open to the petitioner to submit all the GST returns and pay the pending tax arrears as per the statute.

10. This disposes of the Writ Petition. No costs.

As a sequel, miscellaneous petitions, pending if any, stand closed.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

Date: 13.10.2022
LUR/SUS