

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY ,THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE THE CHIEF JUSTICE UJJAL BHUYAN
AND
THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY

WRIT PETITION NO: 38271 OF 2022

Between:

M/s. Super Care Gardens, Rep. by its Partner, Mr. K. Israel, E-509, Gulmohar Gardens, FCI Road, Mallapur, Hyderabad - 500 076.

...PETITIONER

AND

1. Superintendent of Central Tax, Nacharam Range, Uppal CGST Division, 3-4-118/2, Ramanthapur, Hyderabad - 500013.
2. State of Telangana, Rep. by its Principal Secretary to Government, Revenue (CT-II) Department, Secretariat, Hyderabad.
3. Union of India, Rep. by the Secretary, Ministry of Finance, North Block, Central Secretariat, New Delhi-110001.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction setting aside the order of the 1st Respondent, dated 26.11.2019 as illegal, arbitrary and in violation of principles of natural justice and consequently restore the registration certificate granted to the Petitioner under the CGST / TGST Act, 2017.

IA NO: 1 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned order of the 1st Respondent, dated 26.11.2019, pending disposal of the Writ Petition.

Counsel for the Petitioner: SRI. K UMA

Counsel for the Respondent No.1 : SRI. B NARASIMHA SARMA

Counsel for the Respondent No.2 : GP FOR COMMERCIAL TAX

Counsel for the Respondent No.3 : SRI. B.MUKHERJEE

The Court made the following: ORDER

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

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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.

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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.

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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.

**SD/- MOHD.SANAULLAH ANSARI
ASSISTANT REGISTRAR**

//TRUE COPY//

SECTION OFFICER

To,

1. Superintendent of Central Tax, Nacharam Range, Uppal CGST Division, 3-4-118/2, Ramanthapur, Hyderabad - 500013.
2. The Principal Secretary, Revenue (CT-II) Department, Secretariat, Hyderabad, Telangana.
3. The Secretary, Union of India, Ministry of Finance, North Block, Central Secretariat, New Delhi-110001.
4. One CC to SRI. K UMA Advocate [OPUC]
5. One CC to Sri. B. Narasimha Sarma, Advocate [OPUC]
6. One CC to Sri. B .Mukhjerjee, Advocate [OPUC]
7. Two CCs to GP for Commercial Tax, Advocate [OUT]
8. Two CD Copies
9. One Spare Copy

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HIGH COURT

DATED: 13/10/2022

ORDER

WP.No.38271 of 2022



**DISPOSING OF THE WRIT PETITION
NO COSTS.**