

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3807 of 2023**

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M/S KHODAL BRASS INDUSTRY
Versus
STATE OF GUJARAT

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Appearance:

MR KUNTAL A PARIKH(7757) for the Petitioner(s) No. 1

MS SHRUTI DHRUVE, AGP for the Respondent(s) No. 1,2,3

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CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA

and

HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 27/04/2023

ORAL ORDER**(PER : HONOURABLE MR. JUSTICE DEVAN M. DESAI)**

Heard learned advocate Mr. Kuntal A. Parikh for the petitioner and learned Assistant Government Ms. Shruti Dhruve for the respondents.

2. By way of this petition, the petitioner has sought reliefs for quashing and setting aside the order dated 31.3.2022 cancelling registration certificate of the petitioner passed by respondent No.3 and also for quashing and setting aside the order dated 27.10.2022 passed by respondent No.2. It is further prayed that the show cause notice dated 21.3.2022 be also quashed and set aside and the respondent be directed to forthwith restore the registration certificate of the petitioner with effect from 31.8.2021.

3. Learned advocate for the petitioner submitted that the petitioner

was a regular tax payer and was also holding the registration certificate. A show cause notice for cancellation of registration dated 21.03.2022 came to be issued by the respondent under the provisions of Gujarat Goods and Services Tax Act, 2017 whereby the cause for the show cause for cancellation of registration was given as “any tax payer other than composition tax payer has not filed Returns for a continuous period of six months.”

3.1. It is further submitted that vide order dated 21.3.2022 the respondent authority cancelled the registration by passing the order. The said order came to be challenged by the petitioner by filing an appeal under Section 107 of the Gujarat Goods and Services Tax Act, 2017. The said appeal came to be dismissed on 27.10.2022 by the Deputy State Tax Commissioner, Vivad-11, Rajkot on the ground of appeal being filed beyond the period of limitation.

3.2. It is further submitted by the learned advocate for the petitioner that due to the cancellation of registration, the Returns could not be filed and it was further submitted that because of the cancellation of the registration, the business of the petitioner has become standstill.

4. In response to the grievance of the petitioner regarding cancellation of the registration on the ground of non-filing of the Returns of Income, learned Assistant Government Pleader produced copy of the Notification dated 31.03.2023 issued under Section 148 of the Central Goods and Service Tax Act, 2017.

4.1 The notification reads as under,

NOTIFICATION
New Delhi, the 31st March, 2023
No. 03/2023-CENTRAL TAX

G.S.R. 246(E)-In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies that the registered person, whose registration has been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration, namely:-

(a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;

(b) the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns,

(c) no further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period

specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under Sub-section (1) of section 30 of the said Act.

*[F. No. CBIC-20013/1/2023-GST]
ALOK KUMAR, Director*

4.2 Clause (c) of the aforesaid Notification would apply to the facts of this case for which there is no dispute.

5. As the Notification would indisputably apply to the facts of this case, the petitioner may approach the competent authority to avail the benefit of the Notification and seek revocation of the cancellation of registration.

5.1 If the petitioner approaches the competent authority in light of the Notification dated 31.03.2023, the authority will take appropriate decision without booking any delay.

6. Without expressing anything otherwise on the merits of the case, the petition is accordingly disposed of.

(N.V.ANJARIA, J)

(D. M. DESAI, J)

VATSAL