

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 10664 of 2022**

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GSM INDUSTRIES
Versus
UNION OF INDIA

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Appearance:

MR HASIT DAVE(1321) for the Petitioner(s) No. 1,2
MR DHAVAL D VYAS(3225) for the Respondent(s) No. 3
RULE SERVED for the Respondent(s) No. 1,2

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CORAM: HONOURABLE MS. JUSTICE SONIA GOKANI
and
HONOURABLE MR. JUSTICE SANDEEP N. BHATT

Date : 20/01/2023

ORAL ORDER
(PER : HONOURABLE MS. JUSTICE SONIA GOKANI)

1. This Court has substantially heard the learned advocates on both the sides. The ground of show cause notice being cryptic and the order of cancellation of registration also being one liner is the thrust of arguments. The petitioner having approached the Appellate Forum, which had not entertained it on the ground of delay

in preferring the appeal is the line of arguments the respondent has adopted. However, before this Court actually enters into that arena, we had been shown the order No.1 of 2020 of Central tax dated 25.06.2020 Government of India, Ministry of Finance of Central Board of Indirect Taxes and Customs which provides thus:

“... And WHEREAS, sub-section (1) of section 107 of the said Act provides for filing appeal by any person aggrieved by any decision or order passed by an adjudicating authority within three months from the date on which the said decision or order is communicated to such person and sub-section (4) of section 107 of the said Act empowers the Appellate Authority that it may, if he is satisfied that the appellant was prevented by sufficient cause from presenting within a further period of one month;

AND WHEREAS, a large number of registrations have been cancelled under sub-section (2) of section 29 of the said Act by the proper officer by serving notices as per clause (c) and clause (d) of sub-section (1) of section 169 of the said Act and the period of thirty days provided for application for

revocation of cancellation order in subn-section (1) of section 30 of the said Act, the period for filing appeal under section (1) of section 107 of the said Act and also the period of condoning the delay provided in sub-section (4) of Section 107 of the said Act has elapsed; the registered persons whose registration have been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act are unable to get their cancellation of registration revoked despite having fulfilled all the requirements for revocation of cancellation of registration; the said Act being a new Act, these taxpayers could not apply for revocation of cancellation within the specified time period of thirty days from the date of service of the cancellation order, as a result whereof certain difficulties have arisen in giving effects to the provisions of sub-section (1) of section 30 of the said Act;...”

2. Learned advocate, Mr.Hasit Dave says that the petitioner is ready to pay the taxes, which he shall do and will also move the concerned officer seeking the revocation. The Apex Court's direction for enlargement of the time during the COVID-19 also will come to rescue.

3. We also notice the powers given to the officer concerned under Rule 23 of CGST Rules where the proper officer if, is satisfied for the reasons to be recorded in writing that there are sufficient grounds for revocation of cancellation is obligated to revoke the cancellation by an order in Form GST REG No.22 within a period of 30 days from the date of receipt of application and communicate the same to the applicant. The period which the petitioner has spent before this court in pursuing this remedy shall also be construed and therefore, the statutory time period shall needs to be reckoned accordingly. Let this process be initiated within a period of one weeks and payment of taxes and filing of return shall be done within a period of two

weeks from the date of receipt of a copy of this order.

4. Keeping the issue open so far as the decision of *Aggarwal Dying and Printing Works vs. State of Gujarat* is concerned, the matter is adjourned to 08.02.2023.

(SONIA GOKANI, J)

(SANDEEP N. BHATT, J)

M.M.MIRZA