

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P(T) No. 827 of 2024

Abdul Satar, aged about 62 years, Son of Gulam Mustafa, Resident of H. No. 155, Rajeev Nagar, Near Madersa, Ghato, P.O.-Ghatotand, P.S.-Mandu, Ramgarh-825314, Jharkhand Proprietor of M/s Dresco Tailors, having its principal place of business at 12 Number Chowk, West Bokaro Colliery, Rajeev Nagar, Ghato, PO-Ghatotand, PS-Mandu, Ramgarh-825314, Jharkhand
..... **Petitioner**

Versus

(1) The Principal Commissioner, Central Goods and Service Tax & CX, having its Office at Revenue Building, Main Road, Chutia, District-Ranchi, Jharkhand

(2) The Joint Commissioner (Appeals), CGST & CX (Appeals), having its Office at Grand Emerald, 2nd & 3rd Floor, Ashok Nagar, Main Road, PO-Doranda, PS-Argora, Ranchi-834002, Jharkhand

(3) The Superintendent, CGST & CX, Range-1, Ramgarh Division, having his office at 1st, 2nd and 3rd Floor, Trinity Commercial, NH 33 (old), Ranchi Road, PO & PS-Marar, Ramgarh, Jharkhand

.... **Respondents**

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE NAVNEET KUMAR**

For the Petitioner : Mr. Nitin Kumar Pasari, Advocate
For the Respondents : Mr. Amit Kumar, Sr. S.C. (G.S.T.)

6th March 2024

Per, Shree Chandrashekar, A.C.J.

The petitioner is aggrieved by the dismissal of the petition under section 107 of the Central Goods and Services Tax Act, 2017 (in short, GST Act). He seeks to avail the option under section 30 of the GST Act for revocation of the cancellation of registration.

2. By way of the present writ application, the petitioner prays for the following reliefs before this Hon'ble Court;

- a. For issuance of an appropriate writ, order or direction for quashing and setting aside the order dated 23.11.2023 bearing Order-in-Appeal No. 162/CGST/RAN/2023 (Annexure-5), passed by the Respondent No. 2 whereby and whereunder, the appeal preferred by the Petitioner has been rejected on the ground of being filed after expiry of Limitation period as envisaged under Section 107 of the Central Goods and Services Tax Act, 2017 (CGST Act).
- b. For issuance of an appropriate writ, order or direction for quashing and setting aside the order dated 21.02.2023 (Annexure-3), passed by the Respondent No. 3, issued in Form GST REG-19, by which the GST Registration of the Petitioner

has been cancelled for failure to furnish the returns for a continuous period of six months.

- c. For issuance of any other direction(s), and / or any other relief(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice.

3. The petitioner in the capacity of the proprietor of M/s Dresco Tailors has approached this Court with the aforementioned prayers. The petitioner pleads that his proprietary Firm is duly registered under Goods and Services Tax Act, 2017 having GSTN No.20BOPPS2663H1ZR but the said registration was cancelled by an order dated 21st February 2023 on the ground that the Firm had failed to furnish the returns for a continuous period of six months. Against the order of cancellation dated 21st February 2023, the petitioner filed an appeal under section 107 of the GST Act which has been dismissed by an order dated 23rd November 2023 on the ground that the appeal was barred by limitation.

4. Mr. Nitin Kumar Pasari, the learned counsel for the petitioner has referred to the Notification dated 31st March 2023 which was issued by the Directorate of Revenue, Ministry of Finance, Government of India by which the time for filing the application for the revocation of cancellation was extended till 30th June 2023. The said Notification provided as under:

“GSR. 246(E)-In exercise of the powers conferred by section 148 of the Central Goods and Services Tax 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of Council, hereby notifies that the registered person, whose registration has been cancelled under clause (b) or (e) of sub-section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has led 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.”

5. The petitioner has pleaded that on account of paucity of time he could not avail of the benefit under the Notification dated 31st March 2023 because the appeal filed by him against the order of the cancellation of registration was pending and in the meantime the last date for making the application for revocation of the cancellation of registration under the said Notification lapsed on 30th June 2023. In the aforementioned circumstance, the petitioner has approached this Court. Mr. Amit Kumar, the learned counsel for the GST/Income Tax Department submits that the period of limitation for filing an application under section 30 of the GST Act has already lapsed and, therefore, this Court may not grant any indulgence in the matter.

6. Section 39 of the GST Act provides that every registered person other than an input service distributor or a non-resident taxable person shall for every calendar month or part thereof furnish a return of inward and outward supply of goods and service. There are other requirements/stipulations under section 39 which every registered person/Firm is required to comply. Section 45 provides a window to the registered person/Firm for restoration of the registration by allowing/furnishing of a final return within three months from the date of the cancellation or from the date of the order of cancellation whichever is later. Under section 30, any registered person whose registration is cancelled may apply for revocation of cancellation of registration in the prescribed manner.

7. The primary object behind the GST Act is levy and collection of tax on intra State supply of goods or services and the matters connected therewith or incidental thereto. Now the cancellation of registration shall ensue serious civil consequences for the petitioner and his entire business shall come to a standstill. The provisions under sections 30, 45, 46, 47 etc. are intended at providing opportunity to the defaulter Firm so as the Firm continues its business. Therefore, a liberal approach is required to be taken in the matters like the present proceeding notwithstanding the period prescribed under section 30 of the GST Act having been lapsed. Having thus examined the materials on record, we are of the opinion that a permission to

the petitioner to file an application under section 30 of GST Act can be granted subject to the petitioner making payment of dues and other statutory penalty/fine for moving the application under section 30 of the GST Act.

8. Therefore, the present writ petition succeeds to the extent that the petitioner may file an application under section 30 of the GST Act within a period of 30 days and the period of limitation shall be counted from the date of this order.

9. W.P(T) No.827 of 2024 is allowed to the aforesaid extent.

(Shree Chandrashekhar, A.C.J.)

(Navneet Kumar, J.)

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