



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8478 of 2022.

Date of decision: 13.12.2022.

Sunil Kumar Vij

.....Petitioner.

Versus

Union of India and others

.....Respondents.

Coram

**The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.
The Hon'ble Mr. Justice Virender Singh, Judge.**

Whether approved for reporting?¹

**For the Petitioner : Mr. Goverdhan Lal Sharma &
Ms. Rashmi Bhardwaj,
Advocates.**

**For the Respondents : Mr. Balram Sharma, Deputy
Solicitor General of India,
for respondent No.1.**

**Mr. Vijay Kumar Arora,
Advocate, for respondent
Nos. 2 to 4.**

Tarlok Singh Chauhan, Judge (Oral)

The instant petition has been filed for grant of the following substantive reliefs:-

"i) Issue a writ in the nature of certiorari for quashing of order dated 29.08.2022 issued by the respondent No.2 where in respondent No.2 has rejected the appeal in original No. 34/ADC/A/GST/CHD/2022-23 on the ground of one

¹***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

day's delay as the impugned order has been passed in gross violation of the principles of natural justice by not deciding the appeal on merit.

AND/OR

ii) For issuance of writ in the nature of mandamus/certiorari directing the respondents to stay the operation of order dated 28.07.2020 Annexure P passed by Respondent No. during pendency of writ petition and direct the respondent No. 3 & 4 to revoke the cancellation of CGST Registration in the interest of law and justice.”

2. The petitioner is a dealer registered under the GST and was served with a show cause notice dated 14.07.2020 for cancellation of the registration. Respondent No.4 thereafter suo motu cancelled GST registration vide order dated 28.07.2020 on the ground that the petitioner had not filled up up-to-date returns along with payment of tax. Respondent No.3 rejected the application for revocation of the GST registration vide order dated 25.10.2021 and the appeal filed against the same was dismissed by respondent No.2 only on account of its being barred by one day.

3. We really wonder why and how respondent No.2 could have taken such a hyper technical and pedantic view

of the matter to hold that even the delay of one day would be fatal to the maintainability of the appeal.

4. It is not in dispute that respondent No.2 was not vested with an authority to condone the delay and if at all required any precedent on the issue, then we may conveniently refer to the following orders passed by various High Courts:-

1. M/s G.G. Agencies Girjeshwar Rice Mill vs. The State of Karnataka & Ors. (Writ Petition No. 15344 of 2022, decided on 18.08.2022).
2. Vinod Kumar Vs. Commissioner Uttarakhand State GST & Ors.: 2022 (7) TMI 128-Uttarakhand High Court (Special Appeal No. 123 of 2022).
3. TVL. Suguna Cutpiece Centre vs. The Appellate Deputy Commissioner (ST) (GST), The Assistant Commissioner (Circle), Salem Bazaar: 2022 (2) TMI 933-Madras High Court.
4. M/s Trans India Carco Carriers Vs. The Assistant Commissioner (Circle) W.P. Nos. 18537 of 2022 and etc.- Madras High Court.
5. Civil Writ Petition No. 14521/2022 titled Poonamchand Saran vs. Union of India and others along with connected matter, decided on 29.09.2022.

5. It cannot be disputed that the petitioner would not be able to continue with his business in absence of GST

registration and thus would be deprived of his livelihood which amounts to violation of his right to life and liberty as enshrined under Article 21 of the Constitution of India.

6. In this background, the order dated 29.08.2022 is set aside. The delay in filing of appeal before respondent No.2 stands condoned and respondent No.2 shall now decide the appeal on its merits. The parties are left to bear their own costs.

7. With the aforesaid observations, the writ petition is disposed of.

8. Pending application, if any, also stands disposed of.

(Tarlok Singh Chauhan)
Judge

(Virender Singh)
Judge

13th December, 2022.
(krt)