

**IN THE HIGH COURT OF UTTARAKHAND  
AT NAINITAL**

**Writ Petition No. 3195 of 2022 (M/S)**

Anand Prasad GSTIN .....Petitioner  
Versus  
Commissioner, State Goods and Services Tax,  
Commissionerate, Dehradun & Ors. ....Respondents

Present:

Mr. Ashish Agarwal, the learned counsel for the petitioner.  
Mr. Tarun Lakhera, the learned counsel for the respondents.

Date of hearing and order: 12.12.2022

**Sri Sanjaya Kumar Mishra, J.**

By filing this writ application, the petitioner has prayed for the following reliefs:

*"i). Issue a writ, order or direction, in the nature of certiorari calling the records of the case and quash the cancellation of GST registration order dated 28.02.2022 (Annexure No. 2 to W.P.) as petitioner is ready to pay all the balance tax, interest on it and late fee if any.*

*ii) Issue a suitable writ, order or direction in the nature of mandamus permitting the petitioner to prefer an application u/s 30 of the CGST Act 2017 for filing an application for revocation of the cancellation of the GSTIN 05BLWPP1432M1ZL of the petitioner and further direct the respondent no. 2 to consider the application of the petitioner in accordance with law.*

2. In the light of judgment passed in Special Appeal No. 123 of 2022 decided on 20.06.2022, the Court in the case has observed as follows:

*"8) Viewing from another angle, it is apparent that the law made by the Parliament as well as the Legislature with regard to the appeals is very strict, insofar as, that it does not provide an unlimited*

*jurisdiction on the First Appellate Authority to extend the limitation beyond one month after the expiry of the prescribed limitation. In such case, the petitioner/appellant is put to hardship and is left without remedy. In such cases, the party concerned may face starvation because of denial of livelihood for want of GST Registration. In this case, the petitioner/appellant is a semi-skilled labour working as a painter doing painting on doors, windows of the houses. Now-a-days bills for any work executed for a private player or, even for the Government agency, are drawn on-line. In most cases, the payments are made direct to the bank on production of the bill with the GST registration number. In the absence of GST registration number, a professional cannot raise a bill. So, if the petitioner is denied a GST registration number, it affects his chances of getting employment or executing works. Such denial of registration of GST number, therefore, affects his right to livelihood. If he is denied his right to livelihood because of the fact that his GST Registration number has been cancelled, and that he has no remedy to appeal, then it shall be violative of Article 21 of the Constitution as right to livelihood springs from the right to life as enshrined in Article 21 of the Constitution of India. In this case, if we allow the situation so prevailing to continue, then it will amount to violation of Article 21 of the Constitution, and right to life of a citizen of this country"*

3. The petitioner runs its business in the name of M/s Anand Prasad engaged in civil contractor services. The learned counsel for the revenue would submit that as per Section 30 of the Uttarakhand GST Act, the

petitioner has an alternative forum of filing an application for revocation of the cancellation of GST with the further condition that the petitioner must file appropriate returns for the six months which he fail to upload in the portal of the GST Department as per Rule 23 of the Uttarakhand GST Rules, 2017.

4. Since, the petitioner failed to furnish returns for a continuous period of six months and show cause notice has been sent to him, it is directed that the petitioner shall file an application for revocation under Section 30 of the GST Act in terms of Rule 23 of the GST Rules. Though it is time barred, we are inclined to wave the limitation and direct the petitioner to file application for revocation within 21 days hence. He shall also comply the other provision of Section 30 of the Uttarakhand GST Act, i.e, submission of returns for the defaulted six months and any further completed months after the revocation. In such case if dues is found to be due from the petitioner and he pays the same than his case shall be considered liberally by the revenue and shall be dispose of within 15 days. We are constrained to pass this order because livelihood of many persons who are working with the petitioner's company is at stake.

5. There shall be no order to costs.

**(Sanjaya Kumar Mishra, J.)**

(Grant certified copies as per rules)

PV



