

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 5829 of 2024

M/s. Marang Buru Trust, through its authorized representative, through Thakur Chandra Mardi, S/o Gomax Mardi, age 32, R/O Matladih P.O. & P.S. Bagbera, District East Singhbhum, office at Matladih, Matladih P.O. & P.S. Bagbera, District East Singhbhum.

..... Petitioner

Versus

1. The State of Jharkhand, through its Secretary, Department of State Tax, having its office at Project Building, Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District-Ranchi.

2. Additional Commissioner (Appeals), CGT & Central Excise (Appeal) Grand Emerald, 2nd and 3rd Floor, Ashok Nagar, Main Road, Ranchi.

3. The Superintendent CGST & CX, Jugasalai Range, Division-I Jamshedpur, P.O. & P.S.-Jugalsai, Jamshedpur, District- East Singhbhum.

..... Respondents

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner : Mr. Prem Mardi, Advocate
For the Resp.-State : Mr. Mohan Kr. Dubey, A.C. to A.G
For the Res.-CGST : Mr. P.A.S.Pati, Sr. S.C. (CGST)

C.A.V. ON 24/10/2024

PRONOUNCED ON:18 / 11/2024

Per Deepak Roshan, J.

Heard learned counsel for the parties.

2. The instant writ application has been preferred for following reliefs;

(i) For issuance of an appropriate writ/order/direction setting aside entire proceeding of cancellation of the GST registration arising out of the order dated 16.11.2022 in view of the show cause notice dated 07.10.2022 whereby Respondent No.3 has suspended the GST registration on 07.10.2022 on the same day of show cause notice followed by cancellation of GST registration on 16.11.2022.

(ii) For issuance of an appropriate writ, order or direction for quashing and setting aside the order dated 26.07.2024 bearing Order-in-Appeal No. 80/CGST/JSR/2024 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).

(iii) For issuance of further appropriate writ/order/direction including Writ of Direction, directing the Respondent- authorities to restore the GST Registration Certificate of Petitioner enabling it to restart normal business activities.

(iv) For issuance of any other appropriate writ(s)/order(s)/direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case.

3. The brief fact of the case is that the petitioner is a trust and engaged in various social activities in community welfare and development. On 07.10.2022, the petitioner received a show cause notice from respondent no.3 in Form-REG-31 regarding cancellation of GST registration. However, the petitioner was unable to file the reply within stipulated period and an order was passed on 16.11.2022 with regard to the cancellation of GST registration of this petitioner. The petitioner thereafter filed an appeal on 05.12.2023 which was also dismissed on 26.07.2024.

4. The grievance of the petitioner is that he received a show cause notice from respondent no.3 on 07.10.2022. However, on the same day, the petitioner's GST registration was suspended without being given an opportunity to be heard, as such on the ground of principles of natural justice, the registration proceeding should be quashed.

He further submits that though the petitioner could not file the reply within the stipulated period provided in the show cause notice, the concerned respondent passed the order for cancellation of registration on 16.11.2022 indicating therein that his reply has been considered.

Even the appellate authority did not interfere with the order of cancellation on merit and simply dismissed the case on the ground of limitation. As such the entire proceeding for cancellation of GST registration arising out of order dated 16.11.2022 be quashed and set aside and the GST registration of the petitioner be restored.

5. Learned counsel for the respondent submits that the petitioner failed to furnish the return under Section 39 of Central Goods and Services Tax Act, 2017 (in short CGST Act) and since the petitioner was not following the mandatory procedure, a show cause notice was issued and finally his GST registration has been cancelled, as such no

interference is required with the impugned order.

6. Having heard leaned counsel for the parties, it appears that a show cause notice was issued to the petitioner (Annexure-2) which indicates that the reason for issuing show cause notice is that the petitioner failed to furnish the return for a continuous period of six months which is mandatory as per the CGST Act.

The petitioner during course of argument had submitted that in the order of cancellation, it has been mentioned that the undersigned has examined the reply but fact remains that no reply was filed by the petitioner within the stipulated period and as such principles of natural justice has been denied to him.

7. It is true that no reply of the petitioner was on record as informed by the CGST counsel; however, the fact remains that the petitioner failed to furnish return for a continuous period of six months. It further transpires that the appeal of the petitioner was also rejected on the ground of limitation as the same was filed after a lapse of more than 1 year and 20 days; whereas the normal period for filing appeal is three months as prescribed under section 107 (1) of CGST Act 2017.

Thus, we are not having any hesitation in holding that the petitioner firm is not entitled for any relief on the ground of being lethargic in approach, inasmuch as, on the one hand, the petitioner did not file return for a continuous period of six months and on the other hand the petitioner filed appeal before the appellate forum after a delay of 1 year and 20 days which is admittedly beyond the period of three months for filing appeal as prescribed under the Act.

8. Having regard to the aforesaid facts and circumstances, neither there is any perversity in the order of cancellation of GST registration; nor is there any necessity for interference with the appellate order, inasmuch as, the same is filed beyond the statutory period of limitation. Accordingly, the instant writ application stands dismissed. Pending I.A., if any stands closed.

(M.S. Ramachandra Rao, C.J.)

(Deepak Roshan, J.)

*Amardeep/
N.A.F.R*

