

Court No. - 7

Case :- WRIT TAX No. - 1980 of 2024

Petitioner :- M/S Tyagi Lube Agency

Respondent :- State Of Uttar Pradesh And 2 Others

Counsel for Petitioner :- Pranjal Shukla

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal,J.

1. Heard Mr. Parth Goswami holding brief of Mr. Pranjal Shukla for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the State-respondents.

2. By means of present petition, the petitioner is assailing the orders dated 17.9.2024 passed by respondent no. 2 and the order dated 16.9.2022, 12.1.2023 and 3.1.2023 passed by respondent no. 3.

3. Learned counsel for the petitioner submits that registration of the petitioner has been cancelled by the order dated 16.9.2022 and against the said order, a revocation application was filed along with the delay condonation application in which the delay was condoned but the revocation application was rejected by the order dated 12.1.2023 against which an appeal has been filed along with the delay condonation application, which has been rejected on the ground of latches.

4. Learned counsel for the petitioner submits that the notice for cancellation of registration has been issued on the ground that no business activity was found at the principal place of business at the time of survey, therefore, the registration of the petitioner has been cancelled. He submits that Section 29 contemplates situation under which the registration can be cancelled but the reason assigned for cancelling the registration of the petitioner, was not provided therein, therefore, revocation application has been filed but the same has also been rejected on the ground that no reply to the show cause notice was submitted.

5. In support of his submission, learned counsel for the petitioner has relied upon the judgements of this Court in the cases of **M/s Surya Associates Vs. Union of India (Neutral Citation No. 2024:AHC:166791)** and **M/s Shyam Sundar Sita Ram Traders Vs. State of UP and othes (Neutral Citation No. 2023:AHC:60053)**.

6. *Per contra*, learned ACSC supports the impugned order and submits that since at the time of survey, no business activity has been found at principal place of business, therefore, registration has rightly been cancelled.

7. After hearing learned counsel for the parties, the Court has perused the record.

8. Under Section 29 of GST Act, certain situations have been prescribed for cancellation of registration which does not contemplate the condition to which the registration of the petitioner has been cancelled. Further, the petitioner has filed a detailed revocation application which has been rejected on the ground that no reply to the show cause notice has been submitted against which an appeal has been filed which has been rejected without assigning any reason.

9. This Court in the case of **M/s Surya Associates** (supra) has held as under:

"13. The record shows that no reason whatsoever has been assigned for cancellation of registration of the petitioner, however, the reason is the heartbeat and soul of any judicial or administrative order. In the impugned order, no reason has been assigned which shows that same has been passed without any application of mind, which does not satisfy the test of Article 14 of Constitution of India.

14. The Division Bench of this Court in the case of Surendra Bahadur Singh (supra) has held as under: -

"6. Learned counsel for the petitioner argues that although no fault can be found with the appellate order dismissing the appeal as Appellate Authority does not have the power to condone the delay in terms of the scheme of the Act, however, he argues that the order cancelling the registration is without application of mind; he draws my attention to the impugned order dated 07.01.2023, which does not disclose any application of mind. He, thus, argues that the quasi judicial order which has an adverse effect on the right of the petitioner to run business as guaranteed under Article 19 of the Constitution of India, the same has been done without any application of mind which is neither the intent of the Act nor can it be held to be in compliance of the mandate of Article 14 of the Constitution of India. He further argues that as the appeal has not been decided on merit, the doctrine of merger will have no application and it is only the order dated 07.01.2023 which affects the petitioner and as the same is devoid of any reasons, the same can be challenged before this Court as decided by the Hon'ble Supreme Court in the case of Whirlpool Corporation v. Registrar of Trademarks, Mumbai and Ors. - (1998) 8 SCC 1.

7. He further places reliance on the judgment of this Court in the case of Om Prakash Mishra v. State of U.P. & Ors.; Writ Tax No.100 of 2022 decided on 06.09.2022 wherein this Court had recorded that every administrative authority or a quasi judicial authority should necessarily indicate reasons as reasons are heart and soul of any judicial or administrative order.

8. In the present case from the perusal of the order dated 07.01.2023, clearly there is no reason ascribed to take such a harsh action of cancellation of registration. In view of the order being without any application of mind, the same does not satisfy the test of Article 14 of the Constitution of India, as such, the impugned order dated 07.01.2023

(Annexure - 2) is set aside. The petition is accordingly allowed.

9. It is, however, directed that the petitioner shall file reply to the show-cause notice within a period of three weeks from today. The Adjudicating Authority i.e. Assistant Commissioner, Gonda shall proceed to pass fresh order after giving an opportunity of hearing to the petitioner and after considering whatever defence he may take."

15. Similarly, this Court in the case of *M/s Namo Narayan Singh Vs. State of U.P. and Others* (Writ Tax No. 1476 of 2022) has held that providing of reasons in order is of essence in judicial proceedings.

16. Further, this Court in the case of *Ashok Kumar Vishwakarma* (supra) has held that if no reason has been assigned for cancelling the registration, such order cannot sustain despite appeal being dismissed on the ground of laches, and the doctrine of merger will have no application and set aside the orders impugned therein and remanded the matter for adjudicating the issue de novo.

17. The judgments relied upon by the counsel for the respondents i.e. *Chikki Costmetics Budhanpur* (supra), *M/s Arun Enterprises* (supra) & *M/s Yadav Steels* (supra) has been held therein that that court below has no power to condone the delay in filing the appeal.

18. Similarly, the Hon'ble Apex Court in the case of *Hongo India (P) Ltd.* (supra) and the Karnataka High Court in the case of *Director of Mines and Geology* (supra) has held that delay i.e. beyond the period, cannot be condoned.

19. In the case in hand, the cancellation of registration order has been passed without application of mind as no reason has been assigned in the impugned order dated 08.08.2023. However, the Division Bench of this Court has categorically held that if no reason has been given for cancelling the registration, doctrine of merger will not apply and therefore, the judgment relied upon by the counsel for the respondents in the case at hand, are of no aid to them.

20. The present case is similar to one *Surendra Bahadaur Singh* (supra), *Namo Narayan Singh* (supra) & *Ashok Kumar Vishwakarma* (supra); wherein the appeal was dismissed as barred by limitation under Section 107 of the GST Act. After considering the original order, set aside the same being without any reason and allowed the petitioner therein to file reply to the show cause notice and further directed the authority concerned to proceed de novo.

21. In view of the above facts and circumstances of the case as well as law down in the aforesaid judgments cited by the counsel for the petitioner, the impugned orders cannot sustain in the eyes of law and the same are hereby set aside."

10. The record shows that appeal under Section 107 of the Act has been rejected on the ground of limitation without assigning any reason. The merger of the order does not come in way as held in the case of **M/s Surya Associates (supra)**.

11. In view of the aforesaid facts as well as law down by this Court as referred herein above, the impugned orders are set aside.

12. The writ petition succeeds and is **allowed**.

Order Date :- 17.7.2025

Rahul Dwivedi/-