

(2022) 04 DEL CK 0058

In the Delhi High Court

Case No : Civil Writ Petition No. 1212 Of 2022, Civil Miscellaneous No. 3560 Of 2022

Fada Trading Private Limited

APPELLANT

Vs

Commissioner Goods And Service Tax, State Gst Department
& Anr

RESPONDENT

Date of Decision : 07-04-2022

Acts Referred:

Citation : (2022) 04 DEL CK 0058

Hon'ble Judges : Rajiv Shakdher, J; Poonam A. Bamba, J

Bench : Division Bench

Advocate : Puneet Rai, Anuj Aggarwal

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

1. This writ petition is preferred against the order dated 26.10.2021, passed by the Appellate Authority (Delhi GST)/Special Commissioner-II, Department of Trade and Taxes, Government of National Capital Territory of Delhi [hereafter referred to as "appellate authority"].

1.1. The appellate authority, via the impugned order, has dismissed the appeal preferred by the petitioner, on the ground of limitation.

2. Mr Puneet Rai, who appears on behalf of the petitioner, says that the appeal could not have been dismissed on the ground of limitation, in view of the order dated 27.04.2021, passed by the Supreme Court in suo motu W.P.(C) No.3/2020.

2.1. In this behalf, our attention has also been drawn to the order dated 10.01.2022, passed by Supreme Court in W.P.(C) No. 3/2020, as also the Circular dated 20.07.2021, issued by the Central Board of Indirect Taxes and Customs.

3. Mr Anuj Aggarwal, who appears on behalf of the respondents, cannot but

accept that the aforesaid order of the Supreme Court dated 27.04.2021, would apply in view of what is stated in the circular dated 20.7.2021.

4. Ordinarily, we would have set aside the impugned order passed by the appellate authority, and remitted the matter to the appellate authority for adjudication on merits, but, in view of the fact that the show cause notice issued to the petitioner is completely deficient in material particulars, in our opinion, no purpose would be served in remanding the matter to the appellate authority.

4.1. The show cause notice, which is, dated 02.12.2019, gives no details as to the date and time on which the petitioner's authorized representative was to present himself for a personal hearing, before the adjudicating authority. This is apart from the fact that Mr Rai says that neither the show cause notice dated 02.12.2019, nor the subsequent order cancelling the petitioner's GST registration was received by the petitioner.

4.2 To be noted, the record shows that the order cancelling the petitioner's GST registration was passed, on 11.12.2019.

4.3. Mr Rai clarifies that the reason the petitioner says that it did not receive any intimation about the show cause notice or the order cancelling the petitioner's GST registration, is on account of the fact that the then directors of the petitioner, at the relevant time, were at cross purposes.

5. A close perusal of the order dated 11.12.2019, whereby the petitioner's registration was cancelled, shows [as also submitted by Mr Rai] that, in fact, there was no demand outstanding qua the petitioner.

6. In view of the above, the impugned order dated 26.10.2021, passed by the appellate authority, and the order cancelling the petitioner's GST registration dated 11.12.2019, are set aside.

6.1. Consequently, the petitioner's GST registration will be restored, subject to the respondents, hereafter, taking the next steps in the matter, if otherwise amenable in law.

6.2. Needless to add, the respondents will restore the petitioner's GST registration at the earliest, though not later than ten [10] days from the receipt of the receipt of a copy of the judgment.

7. Parties will act based on the digitally signed copy of this judgment.

8. The writ is disposed of in the aforesaid terms.

9. Consequently, pending application shall stand closed.