(2024) 12 JH CK 0020

In the Jharkhand High Court

Case No : W.P.(T) No. 5982 Of 2024

Pragati Bio & Renewable Energy APPELLANT

Vs

Principal Commissioner, Central Goods and Service Tax, Government of India RESPONDENT

Date of Decision : 11-12-2024

Acts Referred:
Central Goods and Services Tax Act, 2017 — Section 39, 107, 107(1)

Citation : (2024) 12 JH CK 0020

Hon'ble Judges : M. S. Ramachandra Rao, CJ;Deepak Roshan, J

Bench : Division Bench

Advocate : Rohit Ranjan Sinha, P.A.S.Pati

Final Decision : Dismissed

Judgement

Deepak Roshan, J.

1. Heard learned counsel for the parties.

2. The instant writ petition has been preferred by the petitioner for the following reliefs;

(a) commanding upon the respondents to restore the GST Registration of the petitioner in order to enable the petitioner to continue to do its business under the GST Registration No.20CWCPB9977P1ZO (as contained in Annexure-2);

(b) holding and declaring that GST Registration No.20CWCPB9977P1ZO (as contained in Annexure-2) in the name of the petitioner is valid from 14.1.2023;

(c) quashing/setting aside, with all consequences, the order dated 21.2.2023 (Annexure-8) passed by the Respondent No.3-Superintendent, Range-1, Ranchi West, Office of the Commissioner, Central Goods and Service Tax, Ranchi whereby the GST Registration of the petitioner was cancelled with effect from 15.1.2023;

(d) quashing/setting aside, with all consequences, the Order-In-Appeal No.67/ CGST/RAN/2024 dated 5/6.6.2024 (Annexure-11) passed in Appeal No. CGST(A)- 31/RAN/2024-25 by the Additional Commissioner (Appeals), Office of the Commissioner, CGST and Central Excise (Appeal), Ranchi whereby and whereunder, the appeal preferred by the petitioner has been rejected on the ground of limitation as envisaged under Section 107 of the Central Goods and Services Tax Act, 2017.

3. The brief facts of the case as it appears from record are that the petitioner is a proprietorship firm and engaged in the business of getting Bio Gas Plant manufactured, its installation raising awareness for use of Bio Gas and its Bio Product. On 15.01.2023, the petitioner received a show cause notice for cancellation of GST Registration. The petitioner did not file any reply. Thereafter, an order dated 21.01.2023 for cancellation of registration for non-compliance of GST REG 2017 has been passed.

Thereafter, the petitioner after a delay of 403 days preferred an appeal on 28.03.2024 before the appellate authority. However, the appellate authority rejected the appeal vide its order dated 06.06.2024 on the ground of limitation itself and without going into the merits of the case.

4. Learned counsel for the petitioner submits that the cancellation of registration of GST will serve no useful purpose and a liberal approach ought to have been taken in the matter. He further submits that the impugned order dated 21.02.2023 (Annexure-8) and 06.06.2024 (Annexure-11) are fit to be quashed and set aside as the concerned authorities should have taken into consideration that the business activity of the petitioner suffered drastically and financial activities were almost zero and under the financial constraints the petitioner could not even pay the fee to its consultant and all these factors affected filing of return.

5. Learned counsel for the respondent submits that the petitioner failed to furnish a return under section 39 of the CGST Act, 2017 and since the petitioner was not following the mandatory procedure and did not comply with GST REG 2017 issued to him within the stipulated time period, his registration was cancelled. Even the petitioner did not file the appeal within time and the appellate authority had dismissed the appeal of the petitioner on the ground of limitation.

6. Having heard learned counsel for the parties and after perusing the records of the case, it appears that a show cause notice was issued to the petitioner on 15.01.2023 which clearly indicates the reason for issuing the show cause notice was that the petitioner has not complied with GST REG 2017 issued to it within the stipulated period.

It further transpires from record that the GST registration of the petitioner was cancelled vide order dated 15.01.2023 (Annexure-8) in Form GST REG 2019; however, petitioner filed appeal on 28.03.2024 with a delay of 403 days i.e. more than a year; whereas the normal period for filing appeal is three months as prescribed under section 107 (1) of CGST Act, 2017.

Thus, we are having no hesitation in holding that the petitioner firm is not entitled for any relief on the ground of delay and latches coupled with the fact of being lethargic in approach, inasmuch as, on the one hand, the petitioner did not file return regularly and thus has not complied with GST REG 2017 issued to him in any manner; and on the other hand, the petitioner filed an appeal after a delay of 403 days which is admittedly beyond the period of 3 months limitation fixed for filing appeal under the Act.

7. Having regard to the admitted 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 has been filed beyond the statutory period of limitation. Accordingly, the instant writ petition stands dismissed. Pending I.A., if any stands closed.