

Court No. - 8

Case :- WRIT TAX No. - 236 of 2023

Petitioner :- M/S, Usha Traders, Sultanpur Thru. Proprietor Sushil Tiwari

Respondent :- State Of U.P. Thru. Commissioner, State Goods And Service Tax, Lucknow And Others

Counsel for Petitioner :- Raghvendra P. Singh, Ajay Pratap Singh

Counsel for Respondent :- C.S.C.

Hon'ble Pankaj Bhatia, J.

Heard learned counsel for the petitioner, learned Standing Counsel for the State respondent and perused the material brought on record.

The writ petition has been filed by the petitioner challenging an order dated 29.06.2022, whereby the order of cancellation of registration was passed as well as the order dated 12.12.2023, whereby the appeal preferred by the petitioner was dismissed as being beyond limitation.

The submission of the learned counsel for the petitioner is that a show cause notice dated 15.03.2022 was served proposing to cancel the registration, the reason assigned in the show cause notice was composition tax payer has not filed the returns for three consecutive tax period. It is argued that because of the Covid-19, the petitioner could not give a reply, as such, an order of cancellation came to be passed, which is contained in Annexure No. 2. The submission is that no reasons have been recorded while passing the order, even if the petitioner has not appeared, it was incumbent upon the respondent to have recorded reasons. He further argued that no time and place for hearing was fixed. He submits that the issue raised in the present writ petition is squarely covered by the decision of this Court in ***Writ Tax No. 147 of 2022 (M/S Chandrasen Sarda Nagar, Lucknow Versus Union of India and others)***.

Considering the order of cancellation, which is on record, which *prima facie*, does not disclose any date of hearing or any consideration or application of mind, as such, following the law laid down in the case of **M/S Chandrasen Sarda Nagar Vs. Union of India (Supra)**, the order dated 29.06.2022 as well as the order dated 12.12.2023 are quashed, the matter is remanded to the adjudicating authority to pass a fresh order in accordance with law after given an opportunity of hearing to the parties.

The petition is ***disposed of*** in terms of the aforesaid.

Order Date :- 21.12.2023

Arun