



IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (M/B) No. 623 of 2025

9th September, 2025

M/s A.D. Trading Company -----Petitioner

Versus

Commissioner State Goods and Services Tax and others

-----Respondents

Presence:-

Mr. D. S. Patni, learned Senior Advocate assisted by Mr.
Dharmendra Bartwhal, Advocate for the petitioner.
Ms. Puja Banga, learned Brief Holder for the State.

JUDGMENT: (per Mr. SUBHASH UPADHYAY, J.)

The petitioner has filed the present Writ
Petition with the following prayers:

- i. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 24.06.2025 (Annexure No.1), whereby the restoration application filed by the petitioner for the restoration of Appeal No. 26 of 2021, has been rejected.*



- ii. *Issue a writ, order or direction in the nature of mandamus directing the respondents to allow the restoration application dated 28.05.2025 (Annexure No. 12) and to restore the petitioner's appeal; filed under Section 107 of the GST Act, bearing appeal No. 26 of 2021 on its original number and to hear and decide the same on merits.*

or in the alternative

- iii. *Issue a writ, order or direction permitting the petitioner to file a fresh appeal under Section 107 of the GST Act against the order of cancellation of GST Registration dated 14.10.2020 (Annexure No. 3) and the show cause notice dated 01.10.2020 (Annexure No.2) along with a specific direction to the Appellate Authority to condone the delay in filing such fresh appeal, considering the extraordinary and peculiar facts and circumstances of the case, and to hear and decide the same on merits in accordance with law.*

2. The brief facts of the case, as narrated in the Writ Petition are that the petitioner-firm was duly registered under the GST Act and vide order dated 14.10.2020, the Assistant Commissioner, Tanakpur cancelled the GST registration of the petitioner-firm. The petitioner preferred an Appeal No. 26 of 2021 under Section 107 of the GST Act before the Joint Commissioner (Appeal) assailing the order dated 14.10.2020.

3. Learned counsel for the petitioner contends that in Special Appeal No. 123 of 2022, this Hon'ble



Court was pleased to observe that:

“15. Sub-Section (91) of Section 2 provides for the “proper officer” in relation to any function to be performed under this Act, means the Commissioner or the officer of the State Tax Act, means the Commissioner or the officer of the State Tax who is assigned that functions by the Commissioner. Thus, it is apparent that the office of the Assistant Commissioner acts under the aegis and control of the Commissioner, and nowhere in the Uttarakhand Act, it is provided that he shall act independently to the duties assigned to him by the Commissioner. **Therefore, the observation of the Hon’ble Supreme Court, i.e, the Commissioner is not an adjudicating authority, hence an appeal will not lie against the orders passed by him under Section 107 of the Uttarakhand Act shall also be applicable to any orders passed by the Assistant Commissioner, be it attachment of property or cancellation of GST registration number.”**

4. That learned counsel for the petitioner contends that as the Appeal under Section 107 of the Uttarakhand Act against the order of cancellation of GST registration passed by the Assistant Commissioner was not being heard by the Appellate Authority, as such, the petitioner filed a Withdrawal Application before the Appellate Authority and preferred a Writ Petition (M/S) No. 1591 of 2024 before this Hon’ble Court; that however in a Review Application filed in the Special Appeal No. 123 of 2022, the Hon’ble High Court vide order dated 24.06.2024, reviewed the earlier order and consequence of the aforesaid order, the Appellate Authority resumed



entertaining the Appeal under Section 107 of the Act against the order of cancellation of GST registration; that as such, the petitioner filed a Withdrawal Application for withdrawal of his Writ Petition pending before the High Court; that the Appellate Authority hearing the Appeal under Section 107 of the Act in the meantime dismissed the Appeal as infructuous by allowing the withdrawal application; that the petitioner moved a Restoration Application for restoration of the Appeal, which has been dismissed vide impugned order dated 24.06.2025, which is challenged in the present writ petition.

5. Learned counsel for the petitioner contends that against the order of cancellation of registration of GST, the petitioner has now become remediless and, as such, he prays that interference of the Hon'ble Court is required looking into the extraordinary and peculiar facts and circumstances of the present case as the cancellation of the GST registration directly affects the livelihood of the petitioner and the said cancellation also has an adverse effect on the revenue of the State.

6. The counsel for the respondent submits that the respondent has no objection, if the case of the petitioner is considered by the Appellate Authority afresh.

7. After hearing learned counsel for the parties, we are of the considered view that the present case requires interference of the Court owing to its peculiar facts. The impugned order dated 24.06.2025 whereby the restoration application filed by the petitioner for the restoration of Appeal No. 26 of 2021 was rejected is set aside. The appeal No. 26 of 2021 is restored to its original



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number. The Appellate authority is directed to decide the Appeal of the petitioner in accordance with law.

8. With these observations, the Writ Petition stands disposed of.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 09.09.2025
Kaushal