

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5394 OF 2022

Mr. Deepak Bapat a/w Sonali Bapat, for Petitioner.
Smt. M.P. Thakur, AGP for State.

DATE : 4TH MAY, 2022.

1] Heard learned counsel for the parties.

3] We have heard learned counsel for the parties. We have also considered that the Hon'ble Supreme Court has extended the period of limitation upto 02.10.2021.

4] The appeal filed by the Petitioner is dismissed by the Appellate Authority only on the ground that the Petitioner did not avail the remedy under Section 30 of the CGST Act.

5] The learned Counsel submits that the appeal is also maintainable against the same. However, the Appellate Authority did not venture into the merits of the matter only on the ground that the Petitioner did not file an Application before the Authority for revoking the cancellation of the registration and dismissed the appeal. No discussion on merit has taken place.

6] The learned AGP submits that there was no impediment for the Petitioner to file an Application for revocation of the order cancelling the registration before the Authority. Instead, the Petitioner preferred an appeal. The Appellate Authority has rightly come to the conclusion.

7] Upon perusal of the order passed by the Appellate Authority, it appears, did not discuss the matter on merits. Only on the ground that the present Petitioner had an opportunity to comply with the provisions of the regulations / statute and the Petitioner failed to avail of the remedy under Section 30 of the CGST Act for revocation of cancellation of the registration, the Appellate Authority has failed to entertain the appeal. The Appellate Authority, if it came to the conclusion that the Petitioner ought to have filed an appeal before the same Authority for revocation, then ought to have accorded an opportunity to the Petitioner to file an Application.

8] The Appellate Authority, it appears, has condoned the delay

in filing the appeal, as the appeal was admitted and heard on merits. However, no decision on merit was given. The appeal was filed on 29.09.2021. Under Section 30, the Application has to be filed within 30 days. The Additional Commissioner or the Assistant Commissioner may extend the time for 30 more days and the Commissioner can extend it for further 30 days.

9] Considering the conspectus of the matter, we are inclined to accord an opportunity to the Petitioner to file an Application before the Authority under Section 30 of the CGST Act.

10] In case the Application is filed by the Petitioner within 15 days from today under Section 30 of the CGST Act before the Authority, the Authority shall construe the same within limitation and take decision upon the Application on merits, expeditiously.

11] The Writ Petition is accordingly disposed of. No costs.

[M.G.SEWLIKAR, J]

[S.V.GANGAPURWALA,J]