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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.5273 OF 2022**

MSK Electricals

..... Petitioner

Vs.

The Union of India & Ors.

..... Respondents

Mr. Deepak Bapat with Sonali Bapat for the Petitioner  
Mrs. M. P. Thakur, AGP for the State

**CORAM: S.V. GANGAPURWALA &  
M. G. SEWLIKAR, JJ.**

**DATED : MAY 2, 2022**

**P.C.**

1 The learned Counsel for the Petitioner submits that the registration of the Petitioner was cancelled under order dated 3<sup>rd</sup> February 2021. The limitation period for filing the Appeal and Application was extended by the orders of the Supreme Court on 30<sup>th</sup> September 2021. 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.

2 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.

3 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.

4 Upon perusal of the order passed by the Appellate Authority, 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.

5       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 13<sup>th</sup> December 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.

6       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.

7       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.

8       The Writ Petition is accordingly disposed of. No costs.

**(M. G. SEWLIKAR, J.)**

**(S.V. GANGAPURWALA, J.)**