IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8747 OF 2022

SMS Infrastructure
Through Proprietor Satara … Petitioner
V/s.
Union Bank of India
Through Government Pleader and ors. … Respondents

Mr.Rushikesh C. Barge, Advocate for Petitioner.
Mr.Jitendra B. Mishra alongwith Mr.Dhananjay B. Deshmukh, Advocates for Respondents.
Ms.S.D.Vyas, GP, "B" Panel Counsel for the State.

CORAM : K.R.SHRIRAM AND
A.S.DOCTOR, JJ.
DATE : JULY 25, 2022.

P.C.:-

1. No reply has been filed. By consent of the parties, petition is taken up for final disposal.

2. Petitioner is impugning an order dated 24th February, 2022 passed by respondent No.2 dismissing petitioner's appeal filed against order dated 16th April, 2020 cancelling petitioner's registration. The order that was impugned in the appeal before respondent No.2 was passed by respondent No.3. Respondent No.2 in the impugned order at paragraph No.7.2 holds that the appeal was maintainable, but still dismisses the appeal on the ground that petitioner could have filed an application under section 30 of the Central Goods and Services Tax Act, 2017 ("CGST Act"). Section 30 provides for

revocation of cancellation of registration. It provides that where a registration is cancelled, petitioner may apply to such officer for revocation of cancellation of the registration within 30 days from the date of service of the cancellation order.

3. In our view, respondent No.2 was not correct in rejecting the appeal on this ground. Section 107 of the CGST Act does not provide that a registered person should, while challenging an order of cancellation of registration should also file an application under section 30 of the CGST Act. While holding that the appeal is maintainable, still respondent No.2 has rejected the appeal on the ground that an application under section 30 has not been made. We are not agreeable with the view expressed by respondent No.2.

4. Therefore, the impugned order dated 24th February, 2022 is quashed and set aside. Respondent No.2 is directed to consider the appeal *de novo* and may pass on merits such order as it deems fit in accordance with law.

5. Respondent No.2 shall also give a personal hearing before passing any order and the notice for personal hearing shall be issued atleast 7 days in advance. If during the personal hearing petitioner wishes to file any documents, respondent No.2 shall receive the documents and consider the same and deal with those submissions in his final order. Petitioner, should they wish, should be permitted to file written submissions recording what was submitted during the personal hearing and the written submissions shall be filed within three working days from the date of personal hearing. The final order shall be a well reasoned order dealing with every submission of

petitioner.

6. Petition disposed. No order as to costs.

7. We clarify that we have not made any observations on the merits of the matter.

(A.S.DOCTOR, J.) **(K.R.SHRIRAM, J.)**

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