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

WRIT PETITION NO. 11618 OF 2022

Shri. Datta Kripa Majur Sahakari
Sanstha Ltd.

....Petitioner

V/s.

The Union of India and Ors.

...Respondents

Mr. Deepak Bapat for Petitioner.

Ms. S.D. Vyas – “B” Panel Counsel for State.

Mr. Karan Adik a/w Mr. Ram Ochani for Respondent No.3.

CORAM : K.R. SHRIRAM &

A.S. DOCTOR, JJ.

DATED : 10th OCTOBER 2022

P.C. :

1. Both Mr. Bapat and Mr. Adik in unison state that the order passed by this court on 2nd May 2022 in Writ Petition No. 5273 of 2022 would squarely apply to the facts and circumstances of this case as well. Counsel states that the petition can therefore be disposed by passing a direction similar to the directions contained in paragraph no.7 of the order dated 2nd May 2022. For ease of reference the said order dated 2nd May 2022 is reproduced below :

1 The learned Counsel for the Petitioner submits that the registration of the Petitioner was cancelled under order dated 3rd February 2021. The limitation period for filing the Appeal and Application was extended by the orders of the Supreme Court on 30th 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 13th 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.

2. Petitioner may therefore file an application either by E-mail or hand delivery within 15 days from today under Section 30 of the Central Goods and Services Tax Act, 2017 before the authority/proper officer who shall construe the same as within time and dispose the application on merits expeditiously and in any case within four weeks of receiving the application.

3. Petition disposed with no order as to costs.

(A.S. DOCTOR, J.)

(K.R. SHRIRAM, J.)