

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 15656 OF 2022

Pragati Distributors. ... Petitioner.
V/s.
Additional Commissioner (Appeals-I)
and others. ... Respondents.

Mr.Ajay A. Joshi for the Petitioner.

Mr.Dhananjay B. Deshmukh i/b. Mr.Ram Ochani
for Respondent Nos.1 and 2.

CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.

DATE : 7 February 2023.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner has challenged the order dated 31 May 2022 passed by Respondent No.1 in the appeal filed by the Petitioner against the order dated 15 April 2021. The Appellate Authority while dismissing the appeal has observed that the Petitioner ought to have filed application under section 30 of the Central Goods and Services Tax Act, 2017 for revocation of cancellation of the registration. The Petitioner had relied upon the

decision of this Court in *Balaji Engineering Works v. Union of India*¹, wherein the Division Bench observed thus:

“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.”*

The matter was adjourned for the Petitioner to take instructions whether the Petitioner would follow the same course of action as in the case of *Balaji Engineering Works*. The learned counsel for the Petitioner states that the Petitioner will follow the same course of action and an opportunity be given to the Petitioner as in the case of *Balaji Engineering Works*.

1 WP No.5394/2022 decided on 4 May 2022

3. 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.

4. 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.

5. Writ Petition is accordingly disposed of. No costs.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)