

JPP

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

WRIT PETITION NO. 3470 OF 2022

Hiten Dhirajlal Sheth
Proprietor of Mahir Life Care

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Brijesh Pathak for the Petitioner

Mr. Jitendra B. Mishra with Mr. Dhananjay B. Deshmukh for
Respondent Nos.1, 2 and 4

Ms. Shuti D. Vyas, 'B' Panel Counsel for the Respondent - State

***CORAM : NITIN JAMDAR &
ABHAY AHUJA, JJ.***

DATE : 17 FEBRUARY 2023

P.C. :-

Heard the learned Counsel for the parties.

2. The Petitioner has sought various prayers primarily arising out of order/action taken on 24 February 2022 cancelling registration and the action of debiting the electronic credit ledger to the tune of Rs.21,25,31,992/- in respect of input credit tax balance as on 27 January 2022.

3. As regards the challenge to the order dated 24 February 2022 regarding cancellation of the registration, the learned Counsel for the Petitioner states that the same is not being pressed in this Petition because the grievance has been redressed.

4. The learned Counsel for the Petitioner sought to contend that the action of debiting the electronic credit ledger is not as per the Governing Rules and there being a negative balance, the action be set aside and the balance be restored as on the date prior to the action dated 27 January 2022. Further grievance of the Petitioner is that even though the Petitioner has sought to know the reasons why the action was taken on debiting the electronic credit ledger, no response was given and therefore, the Petition had to be filed.

5. In the reply affidavit filed by the Respondent Nos. 1 and 2 - the State Tax Authorities, they have stated that the action was taken after being informed by the Respondent No.4 – the Central Tax Authorities. As regards an on going investigation against the Petitioner, the Respondent Nos. 2 and 4 have filed their replies in this Petition accordingly.

6. The learned Counsel for the Petitioner contends that the allegation against the Petitioner on merits stated in the reply filed by the Respondent No.4 are reiteration of the allegations made in the

show cause which have now been adjudicated pending the Petition, and the Petitioner has already filed an appeal. It is also contended that pending this Petition the period of one year, since 27 January 2022, has also come to an end, and the action as per the Rules can only be for one year.

7. In the light of these two developments, it would be necessary for the Respondent Nos. 2 and 4 to take a decision whether to continue with the impugned action and whether the Petitioner's prayer for restoration of the position in the ledger account as of 26 January 2022 be considered. We permit the Petitioner to make a representation to the Respondent No.2 in the light of the above developments that have occurred during the pendency of the Petition and put forth its prayer as sought for in this Petition. If such application is made, the Respondent No.2 will take necessary action in respect of the representation so made as per the law and facts, within a period of three weeks thereafter.

8. The Writ Petition is disposed of in above terms.

ABHAY AHUJA, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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