

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1394 OF 2025

Devkinandan J. Gupta Metals LLP : Petitioner
Versus
Union of India and ors. : Respondents.

Ms Aarti Sathe a/w Ms Aasavari Kadam for the Petitioner.

Ms. Maya Majumdar a/w Ms Niyati Mankad (Through V.C.)
and Ms. Priyanka Singh for the Respondents.

CORAM : M.S. Sonak &
Jitendra Jain, JJ.

DATED : 15 JULY 2025

ORAL ORDER:- (M. S. Sonak, J.)

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. The challenge in this Petition is to the Order-In-Appeal dated 29 May 2024 made by the Commissioner (Appeals) rejecting the Petitioner's Appeal against the Order-In-Original

dated 28 April 2023 by which the Petitioner had sought a refund.

4. The Petitioner had relied upon the judgment and order dated 11 September 2023 made by this Court in the case of **Nirakar Ramchandra Pradhan Vs. Union of India & ors.**¹ by which the cancellation of registration of M/s. Sunshine Traders, a proprietary concern of Mr. Nirakar Pradhan, was restored, primarily on the grounds of failure of natural justice. This was not permitted by the Appellate Authority, reasoning that the production of this judgment and order would amount to the production of additional evidence.

5. In our opinion, production of the judgment of this Court, which may have some relevance to the Petitioner's case, could not have been shut out on the ground that the same amounts to additional evidence and that the procedure for adducing additional evidence was not substantially followed. The Petitioner should have been allowed to produce this judgment, and upon consideration of the same, it was always open to the Appellate Authority to take any appropriate view in the matter. But shutting out the production of this judgment and order was not appropriate.

6. Ms. Majumdar, the learned counsel for the Respondents, however, submitted that after this Court's judgement and order dated 11 September 2023, a fresh show cause notice was issued to Mr. Pradhan and upon adjudication of this show

¹ Writ Petition No.2534 of 2023

cause notice, once again, an order for cancellation of registration was made on 18 March 2024. She submitted that if the Petitioner's case was based on this Court's judgment and order dated 11 September 2023, then even the order of cancellation of registration dated 18 March 2024 could be relevant and required to be considered.

7. We agree with Ms. Majumdar. Even the proceedings after this Court's order dated September 11, 2023, must be allowed to be produced. The Appellate Authority must consider all these materials and then dispose of the appeal afresh.

8. However, we think that the impugned Order-In-Appeal dated 29 May 2024 must be set aside with liberty to the Petitioner to produce and rely upon this Court's judgment and order dated 11 September 2023 and the Respondents must equally be allowed to rely upon the proceedings in the fresh show cause notice issued to Mr. Pradhan and the cancellation order dated 18 March 2024. Accordingly, we set aside the impugned Order-In-Appeal dated 29 May 2024 and remand the matter to the Appellate Authority.

9. The Appellate Authority on remand must allow the Petitioner to produce and rely upon this Court's judgment and order dated 11 September 2023 and allow the Respondents to rely upon the proceedings in the fresh show cause notice issued to Mr. Pradhan and the order for cancellation of registration dated 18 March 2024. The Appeal must be

disposed of by considering this material and all other contentions raised by the Petitioner and the defenses urged on behalf of the Respondents.

10. All contentions of all parties on the merits are explicitly left open.

11. The Rule is made absolute in the above terms.

12. There shall be no order for costs. All concerned must act upon an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)