$~219

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 14th July, 2025

\+ **W.P.(C) 9730/2025**

AUGUST ATTORNEYS LLP .....Petitioner

Through: Mr. Shailender Singh, Advocate.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Sandeep Tyagi, SPC for R-1/UOI. Mr. Akash Verma, SSC with Ms.Aanchal Uppal, Advocate for R/CBIC

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner- August Attorneys LLP under Article 226 of the Constitution of India, *inter alia*, assailing the order dated 7th May 2025 passed by the Office of Commissioner of the Central Tax and Appeals-II in ***Appeal No. 130/JC/Central Tax/Appeal-II/Delhi/2025-26.***

3. The Petitioner is a law firm which had four founding partners and was established on 30th September, 2020. It had obtained a Goods and Service Tax (hereinafter, '*GST*') registration no. 07ABSFA3842K1Z1. Thereafter, during the pandemic it appears that there was a change in structure of the partnership firm as there was entry and exit of new partners. The Form 4 filed with the Registrar of Company, evidencing the exit of certain partners in March, 2021

has been placed on record. In July, 2024, there was a further change in the structure of the partnership firm and in view thereof, it is the case of the partnership firm that the returns could not be filed through the Chartered Accountant.

4. A Show Cause Notice (hereinafter, '*SCN*') is stated to have been issued to the Petitioner on 08th October, 2022 which the Petitioner claims it did not receive and the GST registration of the Petitioner was cancelled with effect from 01st October, 2021 *vide* the impugned order dated 05th September, 2023. The Petitioner did not file a reply, neither any hearing was attended.

5. After the partnership was reconstituted, the Petitioner filed an appeal which has been rejected *vide* the impugned order dated 07th May, 2025. The impugned order, records that under Section 112 of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*'), the appeal would have to be filed within three months plus an additional one month. Since there is a delay in the filing the appeal by the Petitioner, it was dismissed on the ground of limitation.

6. The question is whether there is sufficient cause for the Petitioner to have delayed the filing of the appeal. A perusal of the cancellation order shows that a SCN stated to be issued which the Petitioner claims to have not received at all. There was no reply to the said SCN by the Petitioner. Moreover, no personal hearing was fixed in the matter. Thus, the Petitioner belatedly has filed an appeal.

7. The claim of the Petitioner is that it was never served with either the SCN or the cancellation order. The Petitioner is also aggrieved by the retrospective cancellation of the GST Registration.

8. On behalf of the Central Goods and Service Tax Department

(hereinafter, '*Department*'), it is submitted that the question as to whether the SCN was served to the Petitioner and uploaded on the GST portal or not would have to be verified by him.

9. Be that as it may, the cancellation of GST registration of the Petitioner can have an adverse impact on any firm who has business of goods and services been carried out. The rendering of services could itself come to a standstill and could result in difficulties for the entity itself.

10. There is no doubt that under Section 112 of the CGST Act, there is a period of limitation which has been fixed for filing of the appeal. The question as to whether delay in appeal can be condoned is presently stated to be pending before the Supreme Court.

11. Moreover, the provision which deals with appeals to the Appellate Authority is Section 107 of the CGST, Act which reads as under:-

> ***"107. Appeals to Appellate Authority**.—(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed **within three months from the date on which the said decision or order is communicated to such person.***
>
> *(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said*

decision or order as may be specified by the Commissioner in his order.
(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.
(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month."

12. A perusal of the abovementioned provision would show that if there is sufficient cause shown while filing the appeal, the delay is condonable. There is no negative terminology such as `not thereafter' or similar language, used in Section 107(4) of the CGST Act. Moreover, the stand of the Petitioner is that the order was never communicated to the Petitioner. The limitation period would run only once the order is communicated.

13. The question is to whether the cancellation order was served or not could be a question of fact which the Appellate Authority would have to consider before rejecting the appeal.

14. Moreover, the Appellate Authority also seems to have gone by Section 112 of the CGST Act which deals with the appeal before the Appellate Tribunal not to the Appellate Authority.

15. Under these circumstances and bearing in mind, the adverse impact that the GST registration cancellation can have on the Petitioners' rendering of professional services, it is deemed appropriate to hold that the Petitioner has

made out a sufficient cause for condonation of delay in filing of the appeal before the Appellate Authority. Hence, subject to the deposit of Rs.25,000/- as costs with the Department, the appeal before the Appellate Authority is restored to its number. Let the same be now adjudicated by the Commissioner (Appeals).

16. At this stage, Mr. Shailender Singh, ld. Counsel of the Petitioner submits that the Petitioner is willing to file all the returns which it has not filed due to change in the partnership in terms of the Act and the Rules. The Commissioner (Appeals) may consider granting an opportunity to the Petitioner to file such returns as per law and thereafter, take a decision of the cancellation of the GST Registration.

17. Accordingly, the petition stands disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

JULY 14, 2025
v/ck