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

\+ **W.P.(C) 10600/2025 & CM APPL. 43972/2025**

DELHI ENTERPRISES THROUGH ITS PROPRIETOR SHRI KRISHN SINGH .....Petitioner

Through: Mr. R.P. Singh, Mr. Nirmal Dixit and Mr. Shivam Sharma, Advocates.

versus

SALES TAX OFFICER CLASS II AVATO WARD 71 ZONE 6 DELHI .....Respondent

Through: Ms. Urvi Mohan, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% 23.07.2025

1. This hearing has been done through hybrid mode.

2. The present petition under Article 226 of the Constitution of India has been filed by the Petitioner *inter alia* challenging the retrospective cancellation of GST registration *vide* order dated 3rd October, 2023 *(hereinafter 'impugned order')*.

3. It is the case of the Petitioner that the Show Cause Notice from which the impugned cancellation order arises did not contemplate retrospective cancellation and hence the order is untenable.

4. Ms. Urvi Mohan, ld. Counsel for the Respondent Department submits that an appeal against the impugned order has already been preferred by the Petitioner before the Appellate Authority, and the same was dismissed on 3rd September, 2024 on the ground of it being barred by limitation. The said

Appellate order was challenged by way of a writ petition and the said writ petition, being ***W.P.(C).13679/2024,*** was also dismissed by the Co-ordinate Bench of this Court on the ground that the appeal, being barred by limitation, was not entertainable. The relevant portion of the said order dated 7th February, 2025 is set out below:

> *"35. In the present writ petition, the petitioner firm registered its business on 13.03.2020, bearing GSTIN No. 07LLDPS5372LIZA.* ***The petitioner firm asserts that it has regularly filed GST returns for the financial years 2020-2021, 2021-2022, 2022-2023, and 2023- 2024. However, due to confusion regarding the firm's address, the concerned GST inspector could not locate the premises.*** *The petitioner firm explains that the business premises are situated in Village Nangli Poona, Delhi, an unauthorized area referred to as Laldora land by the Land Revenue Department. This area lacks clearly defined addresses, as property owners often create their own addresses for renting out spaces for commercial purposes such as godowns and shops. The land is subdivided from a large Khasra No. 35 into smaller plots, each approximately 100 square yards, with addresses assigned by the landowners by adding numbers like 1, 2, 3, etc., to the Khasra number. Consequently, when the sales tax inspector visited the petitioner firm's address, he was unable to locate the premises and reported to his superiors that the petitioner's firm was not in existence at the time of inspection.*
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> *36.* ***Respondent No. 3 issued an online SCN to the petitioner firm on 11 .09.2023, stating that the firm could not be traced. Address appears to be incomplete." The petitioner contends that respondent No. 3 was aware of the firm's existence but was unable to trace the address due to the fact that the area lacks a proper address system. The address was self-assigned by the property owners for commercial purposes, rather than being recorded in the official land. The respondent No. 3 issued an online cancellation of the petitioner's GST registration on 03.10.2023, with retrospective effect from***

13.02.2020, the date of the petitioner's firm's registration.

37. The petitioner asserts that upon learning of the cancellation of the GST registration, which was based on the incomplete address of the firm, it promptly filed an online appeal before the Appellate Authority on 04.02.2024. However, the Appellate Authority dismissed the petitioner's appeal on the grounds of delay on 03.09.2024.

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68. That being the legal position, we unhesitatingly find that the decision of the Calcutta High Court in the case of Mukul Islam v. Assistant Commissioner of Revenue[22] wherein the Court overturned the order that had rejected the appeal holding that the CGST law does not explicitly exclude the Limitation Act as also the decision of the Andhra Pradesh High Court in Venkateshwara Rao Kesanakurti v. State of AP[23], wherein it was held that Limitation Act is applicable to condone the delay in filing the appeal beyond one month under the CGST Act, cannot be of any assistance to the petitioners.

69. ***In summary, the power to condone delay caused in pursuing a statutory remedy would always be dependent upon the statutory provision that governs. The right to seek condonation of delay and invoke the discretionary power inhering in an appellate authority would depend upon whether the statute creates a special and independent regime with respect to limitation or leaves an avenue open for the appellant to invoke the general provisions of the Limitation Act to seek condonation of delay. The facility to seek condonation can be resorted provided the legislation does not construct an independent regime with respect to an appeal being preferred. Once it is found that the legislation incorporates a provision which creates a special period of limitation and proscribes the same being entertained after a terminal date, the general provisions of the Limitation Act would cease to apply.***

70. ***In view of the forgoing discussion, as it is evident that each of the appeals was filed beyond the prescribed period of limitation provided by Sections 107 (1) and 107 (4) of the***

***CGST Act, the aforesaid writ petitions lack merit and are accordingly dismissed*.”**

5. In view of the fact that the remedies available to the Petitioners against the impugned order stand exhausted, particularly as both the appeal and the subsequent writ petition were dismissed on the ground of limitation, the Petitioners cannot, through the present writ petition, be permitted to reagitate the same issue on merits.

6. In the opinion of this Court, the present petition is not maintainable. Accordingly, the present petition is dismissed.

7. All pending application(s), if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

JULY 23, 2025/*da/Ar*.