IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17755 OF 2024

Skva Rubber Solution Private Limited ...Petitioner

Versus

Union of India thr the Secretary and ors ...Respondents

Mr. Shreyas Shrivastava a/w. Mr. Saurabh R. Mashelkar a/w.

Mr. Ismail N. Sayed, for Petitioner.

Ms. S.D. Vyas, Addl.G.P. a/w. Mr. M.M.Pabale, AGP for Respondent -State.

CORAM: G. S. KULKARNI & AARTI SATHE, JJ.

DATE: 23 APRIL 2026

Order (Per: Aarti Sathe, J)

1. This petition under Article 226 of the Constitution of India has been filed praying for the following substantive reliefs:-

> a) that this Hon'ble Court be pleased to issue a writ of Mandamus or Certiorari, or any other writ, order or direction quashing and setting aside sub-impugned order of rejection of application for revocation of cancellation of GST registration dtd 30/08/2023 bearing ref no ZD2708233213998 (exhibit-L) issued by respondent No.3 and to restore the GST registration of the petitioner on the GST portal. ;
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> b) that this Hon'ble Court be pleased to issue a writ of Mandamus or Certiorari, or any other writ, order or direction quashing and setting aside sub-impugned order of cancellation of registration dtd 02/02/2021 bearing ref no ZD2702210115452 (exhibit-E)issued by respondent No.3 and to restore the GST registration of the petitioner on the GST portal;
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> c) that this Hon'ble Court be pleased to issue a writ of Mandamus or Certiorari, or any other writ directing the respondent's especially the respondent No. 3 to restore the registration of the petitioner with effect from the 01/05/2019 so that the petitioner may file all the pending returns since MAY, 2019 till date and also discharge liability of tax and interest (attracted if

any) in accordance with the provisions of the Maharashtra state GST act 2017 and the Central Goods and Services Tax Act, 2017.

d) Pending the hearing and final disposal of this petition this Hon'ble court may be pleased to stay the effect, operation and implementation of the Impugned order issued by Respondent No.3 ;

2. The facts lie in a narrow compass and areas hereunder:

i. The Petitioner is a private limited company engaged in the business of trading in crumb rubber granulate. Upon the coming into force of the Goods and Services Tax (GST) regime, the Petitioner obtained GST registration bearing No. 27AAYCYS5660FIZQ on 9th July 2018 in the State of Maharashtra. Subsequently, the Petitioner also obtained GST registration in the State of Gujarat on 19th July 2023.

ii. It is the Petitioner's case that it had been regularly filing GST returns. However, during the financial year 2018–19, due to financial difficulties, the Petitioner was unable to discharge its tax liability and, consequently, failed to file its GST returns within the prescribed time. This led to a suspension of the Petitioner's business operations in Mumbai, Maharashtra, from February 2020 onwards.

iii. Thereafter, on 31st December 2020, a show-cause notice in Form GST REG-17 was issued to the Petitioner, whereby the Petitioner's GST registration stood suspended, with effect from the said date. The Petitioner was called upon to furnish a reply to the said notice within a period of seven working days from the date of service thereof.

iv. On 2nd February 2021, the GST registration of the Petitioner came to be cancelled by Respondent No. 3 with effect from 1st May 2019. It is the Petitioner's contention that the said cancellation was effected without affording any opportunity of personal hearing and is, therefore, in violation of the principles of natural justice.

v. Being aggrieved by the cancellation of registration, and to avail the benefit of Notification No. 3 of 2023 dated 31st March 2023 (amnesty scheme), the Petitioner filed its pending returns up to March 2019 on 24th May 2022. Thereafter, on 30th June 2023, the Petitioner filed an application for revocation of cancellation of GST registration in Form GST REG-21, bearing ARN No. AA2703193024096. By the said application, the Petitioner sought revocation of the cancellation order and disclosed its GST liability amounting to Rs. 2,97,102/- for the period April 2019 to March 2020. The Petitioner also stated that its electronic ledger reflected a sufficient balance to discharge the said liability.

vi. Pursuant to the aforesaid application, a show-cause notice dated 27th July 2023 was issued to the Petitioner, calling upon them to show cause as to why the application for revocation of cancellation of GST registration should not be rejected. The Petitioner was directed to furnish its reply to the said notice within a period of seven working days from the date of receipt thereof.

vii. In response to the aforesaid show-cause notice, the Petitioner filed its reply dated 7th August 2023, *inter alia* stating that it had sufficient funds in its electronic cash ledger to discharge its GST liability. The Petitioner also placed on record supporting documents, including electricity bills to evidence the change in its place of business.

viii. However, without duly considering the reply and the documents placed on record by the Petitioner, Respondent No. 3 passed an order dated 30th August 2023 rejecting the Petitioner's application for revocation of cancellation of GST registration.

ix. Aggrieved by the said order, the Petitioner preferred an appeal on 19th March 2024 before the Appellate Authority. However, the said appeal came to be rejected on the ground of limitation.

3. It is in the backdrop of the aforesaid facts that the Petitioner, being aggrieved by the order of cancellation of GST registration dated 2nd February 2021 as well as the order dated 30th August 2023 rejecting the application for revocation of cancellation of GST registration, has filed the present Petition.

4. Mr. Shreyas Shrivastava, along with Mr. Saurabh R. Mashelkar and Mr. Ismail N. Sayed, appeared on behalf of the Petitioner. Ms. S.D. Vyas, learned Additional Government Pleader, along with Mr. M. M. Pabale, learned Assistant Government Pleader, appeared on behalf of the Respondent–State.

5. We have perused the papers and proceedings with the assistance of the learned counsel appearing on behalf of the parties.

6. At the outset, learned counsel appearing on behalf of the Petitioner submitted that the action of the Respondents in cancelling the Petitioner's GST registration is arbitrary, inasmuch as no opportunity of personal hearing was granted to the Petitioner. It is contended that the procedure prescribed under law has not been followed while passing the order dated 2nd February 2021 cancelling the Petitioner's registration, thereby rendering the said order unsustainable.

7. It is further submitted that even the order passed by the Appellate Authority dated 31st July 2024, rejecting the Petitioner's appeal on the ground of delay, is bad in law, inasmuch as the very order of cancellation of registration is void *ab initio* and *non est* in law. Learned counsel for the Petitioner therefore contends that the entire process of cancellation of GST registration stands vitiated and is arbitrary.

8. *Per contra*, learned counsel appearing on behalf of the Respondents, Ms. Vyas, submitted that the Petitioner's registration was cancelled on valid grounds, namely that the Petitioner's place of business was found to be non-operational, and that the Petitioner had failed to discharge its tax liability as well as to file returns within the prescribed time. She, therefore, opposed the reliefs sought in the present Petition.

9. Having heard the learned counsel for the parties, we are of the considered opinion that there is considerable substance in the contentions urged on behalf of the Petitioner. In the facts of the present case, the cancellation of the Petitioner's registration appears to be arbitrary. The show-cause notices, as well as the orders dated 2nd February 2021 and 30th August 2023 (hereinafter collectively referred to the impugned orders) do not reflect due consideration of the submissions advanced on behalf of the Petitioner.

10. Further, the order dated 31st July 2024, whereby the Petitioner's appeal against rejection of the application for revocation of cancellation came to be dismissed, in our view, adopts an unduly pedantic approach. The Appellate Authority has rejected the appeal solely on the ground of limitation, without adverting to the merits of the case or the submissions advanced by the Petitioner.

Such an approach, in our opinion, is not warranted, particularly in matters involving cancellation of GST registration, which has serious civil consequences.

11. This is more so in the present case, where the very order cancelling the Petitioner's GST registration is, *prima facie*, void *ab initio* and *non est* in law, having been passed in violation of the principles of natural justice, namely, without affording an opportunity of personal hearing to the Petitioner.

12. This Court, in *K-Line India Private Limited vs. Union of India*[1], and connected matters, has categorically held that an assessee ought not to suffer injustice on account of dismissal of an appeal on the ground of limitation, when the foundational order itself is *ex facie* illegal and *non es*t in law. The relevant paragraphs of the aforesaid decision are reproduced hereinbelow:

> 15. Thus, we are of the opinion that the petitioner ought not to suffer injustice on a too pedantic view of the matter, as in our opinion, strict adherence to the rules was certainly a sine qua non insofar as the initial decision taken on the refund application was concerned, which has not been adhered in passing the said order dated 13 September, 2019. It is also not the case that the petitioner was sleeping over its rights when the petitioner immediately moved an application dated 31 January, 2020 seeking to rectify the refund application and making a fresh application immediately on 12 February, 2020 which was just a month prior to the beginning of the Covid-19 pandemic, and on which the deficiency memo dated 27 February, 2020 was issued. In these circumstances, in our opinion, the application of the petitioner for refund ought to have been considered, when the same was sought to be entertained by the Designated Officer.
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> 16. There is one more aspect, which we need to note that as per the requirements of law, the rejection was required to be uploaded on the GST portal, which was not uploaded in the present case. This was also pointed out by the petitioner to the designated authority and to the appellate authority.
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> 17. Thus, taking an overall view of the matter, in our opinion, it would be necessary that the basic rights of the petitioner/assessee as conferred by law would be required to be recognized, namely, that the petitioner's refund application would be required to be dealt only in the manner as the rules

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> **(supra) would provide, as held by this Court in M/s. Knowledge Capital Services Pvt. Ltd. (supra). This more particularly, when in the present case it is clear that the petitioner was asserting its rights and was pursuing the matter throughout in the manner, the law needs to recognize. In such circumstances, in our opinion, the refund application as filed by the petitioner subsequent to the rejection dated 13 September, 2019 on which a deficiency memo has been issued, needs to be taken to its logical conclusion and decided in accordance with law.**
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> **(emphasis supplied)**

13. Insofar as the cancellation of GST registration is concerned, the impugned orders do not set out any reasons whatsoever for cancelling the Petitioner's GST registration and have been passed in breach of the principles of natural justice. This Court, in a catena of decisions, has consistently held that such non-speaking orders, passed without affording an opportunity of hearing, are liable to be quashed and set aside. The following decisions are apposite:

i. *Makersbury India Pvt. Ltd. vs. State of Maharashtra*[2]

ii. *Monit Trading Private Limited vs. Union of India*[3]

iii. *C.P. Pandey & Co. vs. Commissioner of State Tax*[4]

iv. *Ramji Enterprises vs. Commissioner of State Tax*[5]

v. *Nirakar Ramchandra Pradhan vs. Union of India*[6]

vi. *Afzal Hussain Saiyed vs. Principal Commissioner of Central Tax, Mumbai Central*[7]

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2. 2023(79) C.S.T.L.341 (Bom)

3 2023(76) G.S.T.L 34 (Bom)

4 (2024) 123 GSTR 84

5 2023 (78) G.S.T.L.220(Bom)

6 2023 (9) TMI 1176-Bombay High Court

7 2023 (79) G.S.T.L.296 (Bom)

14. For the aforesaid reasons, we have no manner of doubt that the impugned orders cancelling the Petitioner's registration are liable to be set aside. We accordingly allow the present Petition in the following terms:

ORDER

i. The impugned show-cause notices dated 31st December 2020 and 27th July 2023 are quashed and set aside.

ii. The consequential impugned orders dated 2nd Feebruary 2021 and 30th August 2023, cancelling the Petitioner's GST registration, are also quashed and set aside.

iii. The Respondents are at liberty to initiate fresh proceedings against the Petitioner. The proceedings are remanded to the Respondent No. 3 (State Tax Officer), i.e., the original authority, to adjudicate the show-cause notices concerning the Petitioner's GST registration.

iv. The show cause notices shall be adjudicated in accordance with law, after granting the Petitioner an opportunity to place on record its contentions and after affording a personal hearing.

v. The show cause notices shall be adjudicated as expeditiously as possible, and preferably within a period of four weeks from the date of filing of the reply, as may be directed to be filed by the Petitioner.

vi. After the personal hearing, a reasoned and speaking order shall be passed as expeditiously as possible, in accordance with law, and preferably within a period of three months from the date on which this order is made available to Respondent No. 3 (State Tax Officer) by the Petitioner.

vii. All contentions of the parties are expressly kept open.

viii. The Petition is disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**

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