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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 19709 of 2026

Decided on: 02.11.2026

Rakesh Kumar .....Petitioner

Versus

Union of India and others .....Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

Hon'ble Mr. Justice Romesh Verma, Judge

Whether approved for reporting?[1] *Yes*

For the petitioner	:	Mr. Goverdhan Lal Sharma, Advocate.
For the respondents	:	Mr. Balram Sharma, DSGI with Mr. Rajeev Sharma, Advocate for respondent No. 1-UOI.
	:	Mr. Pushpender Jaswal, Additional Advocate General for respondent No. 2.
	:	Mr. Vijay Kumar Arora, Senior Advocate through VC with Mr. Hitansh Raj, Gaurav Kumar and Avantika Bhandari, Advocates for respondents No. 3 and 4.

Ajay Mohan Goel, Judge *(Oral)*

Notice. Mr. Balram Sharma, learned Deputy Solicitor General of India, Mr. Pushpender Jaswal, learned Additional Advocate General and Mr. Hitansh Raj, learned Counsel, accept notice on behalf of the respective respondents.

2. By way of this writ petition, the petitioner has *inter alia*

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

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prayed for the following reliefs:-

> *"i) Issue a writ in the nature of certiorari for quashing of show cause Notice dated 12.02.2025 (Annexure P2) order dated by the 04.07.2025 (Annexure P-1 issued respondent no. 3 where in respondent No. 3 has cancelled the petitioners registration on the sole ground no reply submitted which is in gross violation of the principles of Natural Justice and direct respondent No. 3 to restore the Petitioner GST registration to its original status and Number.*
>
> *ii) AND/OR*
>
> *iii) Issue a writ in the nature of certiorari for quashing of order dated 20.03.2026 (Annexure P6) issued by the respondent no. 4 to the extent respondents have imposed penalty under section 73 without putting petitioner under mandatory show cause notice.*
>
> *iv) For issuance of writ in the nature of mandamus/certiorari directing the respondents to stay the operation order dated 04.07.2025 Annexure P-1 order passed by Respondent No. 3 and stay dated 20.03.2026 (Annexure P-6) passed by respondent No. 4 during pendency of writ petition and direct the respondent No. 3 to revoke the cancellation of CGST Registration in the interest of law and justice."*

3. Learned Counsel for the petitioner submitted that in terms of order dated 04.07.2025 (Annexure P-1), the GST

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registration of the petitioner has been cancelled and feeling aggrieved, the petitioner has approached this Court praying for the reliefs enumerated herein above.

4. On a query put to the learned Counsel for the petitioner as to whether there was any statutory remedy available to the petitioner against the cancellation of his GST registration, learned Counsel fairly submitted that in terms of Section 107 of the Central Goods and Services Tax Act, the petitioner was having the remedy of appeal, which was not exhausted.

5. On further query put to the learned Counsel for the petitioner why the petitioner did not file the appeal against the impugned order, learned Counsel referred to para-4 of the writ petition and submitted that the petitioner, not being a tech-savvy person, did not access the mail as he was fully dependent on his Accountant to file GST returns for all the communications on GSTN Network. He submitted that during the tax period of July 2024 to December 2024, the petitioner had no sales and under some bonafide mistake, he omitted to file nil returns. He submitted that though a show-cause notice (Annexure P-2) was issued to the petitioner, but as the petitioner is not a very tech-savvy person, he

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did not login the GSTN portal and therefore could not reply to the show-cause nor he saw the impugned order. No other reason was put forth by the learned Counsel. He submitted that as on account of the above facts, the petitioner had lost the remedy of filing the appeal against the order, therefore, he had preferred this writ petition.

6. Heard. Under Section 107 of the Central Goods and Services Act, the impugned order is appealable. The period of limitation to assail the impugned order of cancellation of the registration of GST number of the petitioner is three months. A perusal of Section 107 (4) of the Act demonstrates that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the period of limitation prescribed in Section 107 of the Act, allow such an appeal to be presented within a further period of one month. This demonstrates that the extended period, which is given to the authority to entertain an appeal beyond the period of limitation is over, is one month. Beyond that, no power is conferred upon the authority to condone the delay.

7. The moot issue before us therefore is that if an aggrieved

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party does not invoke and exhaust the appellate remedy, which is a statutory remedy, either within the period of limitation or within the further extended period mentioned in sub-section 4 of Section 107 of the Act (ibid), then can such a party be permitted to take advantage of its own act of omission and be permitted to assail the said order under Article 226 of the Constitution of India?

8. In our considered view, the answer to the same has to be in the negative.

9. The Central Goods and Services Tax Act is both a procedural law as well as a substantive law. Whoever is aggrieved by an order passed by the Statutory Authority under the provisions of the CGST Act, has a remedy as is provided under the same. Ignorance of law is no excuse. Once the GST registration of the petitioner was cancelled by the authority and that too after issuing a show cause notice to him, the petitioner should have laid challenge to the same only under the provisions of Section 107 of the Act and that too within the period of limitation prescribed therein, including the extended period of one month. Simply because the petitioner herein did not avail the statutory remedy and as a result thereof, now he is not in a position to assail the same, therefore, he cannot

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be permitted to invoke the provisions of Article 226 of the Constitution of India on the plea that the petitioner cannot be remediless. The petitioner had a remedy which he did not avail. If this concession is granted to the petitioner in the present proceedings, then wherever there is a period of limitation prescribed, followed by a bar upon the authority not to entertain any appeal etc. beyond the period of limitation or some extended period thereafter, all such parties who do not exhaust statutory remedy will rush to the High Court under Article 226 of the Constitution of India, which will render the prescription of the period of limitation for filing appeals etc. statutory provisions as otiose.

10. Right to file appeal is a statutory right. It is not a common law right. In the present case, the GST registration number was issued to the petitioner as per the provisions of the Central Goods and Service Tax Act, 2017. As the petitioner failed to comply with the provisions of the said Act, this has led to the cancellation of his GST registration. The cancellation of the registration of the petitioner is on account of the acts of omission of the petitioner which are spelled out in the show-cause notice Annexure P-2. Because the petitioner, purportedly is not a tech-savvy person, this

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does not mean that he is immune from the provisions of the GST Act as to how the cancellation of GST registration was to be assailed by an aggrieved party, as also from the limitation period which is prescribed to do the needful.

11. As we have observed herein above also, as the CGST Act is both a procedural as well as substantive law, the petitioner should have been careful to have availed this remedy and that too within the period of limitation as is prescribed under Section 107 of the Act. Right to appeal, not being a common law remedy nor being a constitutional remedy, if not availed, leads to a situation where the right remains but the remedy goes. Herein, as it is apparent and evident that the appellate remedy was not availed by the petitioner because of its own acts of omission, this omission of his cannot be given any premium by entertaining the present writ petition against the impugned order. Besides this, as has been observed by us herein above also, any such indulgence given to the petitioner by this Court would have wide ramifications in all those matters where a party does not avail the appellate remedy or for that matter, may be revisional remedies within the period of limitation, as prescribed in the concerned Statutes.

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Therefore, in light of the above observations and discussion, as according to us, the present petition is not maintainable, the same is dismissed. However, as prayed for by the learned Counsel for the petitioner, the dismissal of this petition shall not come in the way of the petitioner in seeking the remedies, if any, available to him under the provisions of the CGST Act. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

(Romesh Verma)
Judge

November 02, 2026
(*narender*)