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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 443 OF 2025

Azaria corp LLP

...Petitioner

Versus

The Deputy Commissioner of State Tax,
(MUM-VAT-E-809) & Anr

...Respondents

Mr Vishal Agarwal, *with Mr Rishabh Jain, Mr Deep Shah & Ms Laxmi Nair, i/b, Mr Kevin Shah & Associates, for the Petitioner.*

Mr Amar Mishra, AGP, *for the Respondent-State.*

CORAM M.S. Sonak &
 Advait M. Sethna, JJ.
DATED: 20 September 2025

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

1. Heard Mr Agarwal who appears with Mr Rishabh Jain, Mr Deep Shah and Ms Laxmi Nair for the Petitioner and Mr Amar Mishra, learned AGP for the Respondent-State.

2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.

3. This is a Petition seeking the restoration of the Petitioner's cancelled GST registration.

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4. Mr Agarwal states that the cancellation was on account of the failure of the Petitioner to file returns. He however submits that later, the amounts claimed by the Respondents have been fully paid. He refers to Exhibit 'F' at page 77 of the paper book to submit that the Petitioner has paid to Respondent Rs. 16,46,186/- towards the GST due on 7 June 2024, i.e., post the cancellation order dated 5 June 2023.

5. Mr Agarwal pointed out that the Petitioner has also paid interest and late fees of Rs. 6,27,935/-. In this regard, he referred to the document at page 78 evidencing such payment.

6. Mr Agarwal submitted that in similar cases, this Court has restored the registration because such restoration is in the interest of both the Petitioner and the Revenue. He submitted that there was a delay in filing returns for bona fide reasons, and the Petitioner has already made amends by paying the entire dues. He therefore submitted that if the order of cancellation of registration is continued, then the Petitioner would be disabled from undertaking any business activities and even the State would lose Revenue by way of GST. He submitted that all these would defy the doctrine of proportionality.

7. He referred to the decisions of this Court in **Stanley Aphonsus D'silva Vs The State of Maharashtra through the Government Pleader & Ors¹**, **M/s. Parmatma Steel Centre (a proprietorship concern of Mr. Jitendra Mohanlal Jain) Vs The**

¹ WPL/29525/2024 decided on 17 March 2025

State of Maharashtra & Ors² and BBK Corporation Vs Union of India & Ors³.

8. Mr Mishra, the learned Counsel for the Respondents submits that the decisions relied upon by Mr Agarwal were mainly based on concessions made by the learned Counsel appearing on behalf of the Revenue. He submitted that he does not have any specific instructions and, therefore, leaves the matter for the determination of this Court.

9. In this case, we cannot fault the Revenue for canceling the Petitioner's registration for failure to file returns and pay GST. However, the Petitioner has explained the circumstances in which the returns could not be filed or the dues paid. Apart from the explaining a circumstances, the Petitioner has, paid the dues together with late fees and interest. The documents referred to by Mr Agarwal during his arguments establish such payments. The respondents did not dispute the documents by the respondents.

10. In the decisions relied upon by Mr Agarwal, it is true that the Counsel for the Revenue, on instructions, agreed to the restoration of the registration subject to the Petitioner in the said Petition paying all dues together with interest, late fee and penalty etc. To enable Mr Mishra to obtain instructions as to whether a similar course could be followed in this matter, we had adjourned the hearing. However, Mr Mishra states that he was unable to obtain specific written instructions and therefore leaves the matter to the decision of this Court.

² WPL/23875/2023

³ WP/12563/2024

11. In the decisions relied upon by the Petitioner, the common thread was that the restoration of the registration would benefit the Petitioner as well as the Revenue. The Petitioner would be able to undertake its business and pay GST in terms of the law. A permanent cancellation and that too for failure to file returns or pay dues, may not be in the interest of either the Petitioner or the Respondents. In this case, as noted earlier, the Petitioner has prima facie made amends by paying the entire dues, interest and late fees.

12. If, in addition to what has been paid by the Petitioner, any further amounts towards penalty, etc., are found to be due, the Respondents can always intimate this fact to the Petitioner, and the Petitioner can pay the additional amount within 15 days from the receipt of such intimation. However, to permit the registration to remain cancelled permanently does appear to be disproportionate at least in the facts of the present case.

13. Besides, in the decisions relied upon by the Petitioner, the facts were quite like those that are present in this case. True, in those matters, the Counsel appearing on behalf of the Revenue made a statement that the Revenue would have no objection to the restoration of cancellation, provided all dues are cleared. Merely because such a statement is not being made in the present matter, we do not think that we should deny the Petitioner any relief on the lines granted to the Petitioner in the decisions referred to by the Petitioner. There is no serious dispute that the material facts in the present case are not significantly different from the facts in the decision relied upon by the learned Counsel for the Petitioner.

14. We may also refer to the decision of the Orissa High Court in the case of **Bimal Kishore Sahu Vs Additional Commissioner, GST (Appeals), BBSR & Anr⁴**, where, reliance was placed on another decision of the Coordinate Bench of the Orissa High Court in the case of **Mohanty Enterprises Vs The Commissioner CT & GST Odisha** and registration was restored after condoning the delay in payment of all dues.

15. Additionally, Mr Vishal Agarwal, the learned Counsel for the Petitioner, on instructions, has stated that the Petitioner is willing to pay an amount of Rs. 50,000 to the Government KEM Hospital as and by way of its corporate social responsibility. This statement is accepted, and such payment must be made and proof produced within 15 days from today in this Court.

16. For all the above reasons, we dispose of this Petition by making the following order.

ORDER

(a) Within 15 days from the date of the uploading of this order, the Respondents must inform in writing the Petitioner if the Petitioner is liable to pay any further amounts towards penalty, dues, etc. Within 15 days of the receipt of such intimation, the Petitioner must pay the demanded amount.

(b) If no intimation is sent within 15 days or if the Petitioner makes payment within 15 days of the receipt of the intimation, then the impugned order of cancellation of Petitioner's registration dated 5 January 2023 shall stand quashed and set aside.

⁴ 2024 SCC OnLine 2199

(c) If, however, the Petitioner fails to pay the amount demanded within 15 days of the receipt of the intimation from the Respondents, then, this Petition shall stand dismissed with costs of Rs. 50,000/- payable to the Government KEM Hospital.

(d) In any event, the Petitioner must pay, consistent with the statement made on his behalf, Rs. 50,000/- to the Government KEM Hospital within 15 days from today. It is clarified that if this payment is made, then there would be no requirement to pay any additional cost of Rs. 50,000/-.

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

18. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)