

[2024] 159 taxmann.com 481 (Andhra Pradesh)/[2024] 83 GSTL 294 (Andhra Pradesh)/[2024] 102 GST 840 (Andhra Pradesh)[09-01-2024]

GST : Where assessee's appeal against cancellation of GST registration was rejected on ground that it was barred by limitation and beyond condonable statutory period, in view of fact that assessee's health was not good and he was on bed rest, delay was to be condoned

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[2024] 159 taxmann.com 481 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Shaik Abdul Azeez

v.

State of AP*

RAVI NATH TILHARI AND HARINATH N., JJ.

WRIT PETITION NO. 33509 OF 2023

JANUARY 9, 2024

Appellate Authority - Appeals to - Limitation period - Condonation of delay - Assessee's appeal under section 107 of APGST Act against cancellation of GST registration was rejected on ground that it was barred by limitation and beyond condonable statutory period - Assessee submitted that cause of delay in not preferring appeal within statutory period as also within condonable period was that assessee had undergone surgery and he was on bed rest - It was also submitted that order of cancellation of registration was not communicated to petitioner physically and on account of bad health condition, assessee could also not be aware of impugned order - HELD : Though impugned order, in view of section 107 of APGST Act, did not suffer from any illegality, considering that there was sufficient cause for not preferring appeal in time, interest of justice required condonation of delay - Therefore, delay was to be condoned by imposing cost of Rs. 20,000 [Section [107](#) of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Para 12] [In favour of assessee]

Ms. Jyothi Ratna Anumolu, *Ld. Counsel for the Petitioner.* **S.A.V. Sai Kumar**, *Ld. AGP for the Respondent.*

ORDER

1. Heard Ms. Jyothi Ratna Anumolu, learned counsel for the petitioner and Sri S.A.V.Sai Kumar, learned Assistant Government Pleader for Commercial Tax-I for the respondents.
2. With the consent of learned counsels for the parties, the present writ petition is being decided finally at this stage.
3. The petitioner's GST registration was cancelled by order dated 13-3-2023 after show cause notice dated 14-1-2023. The petitioner filed appeal under section 107 of Andhra Pradesh Goods and Services Tax Act, 2017 (for short 'APGST Act') which was rejected at the admission stage on the ground that it was barred by limitation and beyond the condonable statutory period.
4. The appeal was beyond the condonable period by 128 days. Under Section 107 of APGST Act, the appeal was to be filed within a period of limitation, in the present case, three months. The condonable period

thereafter was one month. The appellate authority under the statutory provision has no power to condone the delay beyond the condonable statutory period. Consequently, the appeal was rejected.

5. Learned counsel for the petitioner submits that the cause of the delay in not preferring the appeal within the statutory period as also the condonable period was that the petitioner's health was not good and he was on bed rest. In this regard para Nos.4 & 7 of the affidavit have been referred.

6. The learned counsel for the petitioner has placed reliance in W.P.No.17349 of 2023 decided on 4-8-2023, in which a Coordinate Bench of this Court, after finding that the sufficient cause was shown to condone the delay in filing the appeal, remitted the matter to the appellate authority, by imposing the condition for payment of Rs. 20,000/-.

7. Learned Government Pleader for Commercial Tax submits that considering the judgment of the coordinate Bench, the present matter may also be decided finally.

8. We have considered the submissions advanced.

9. In para-4 of the affidavit it is deposed that the petitioner had undergone surgery and was unable to look after his business. In para-7 of the affidavit it is submitted that the order of cancellation of registration was not communicated to the petitioner physically and on account of the petitioner's health condition, the petitioner could also not be aware of the impugned order.

10. In Ex.P3 annexed FORM GST APL-01 para-17 also it is mentioned that 'reasons for delay - Health is not well... took bed rest'.

11. The cause as shown in the affidavit is sufficient.

12. Though the impugned order in view of Section 107 of APGST Act does not suffer from any illegality, as the appellate authority cannot condone the delay beyond statutory condonable period but considering that there was sufficient cause for not preferring appeal in time, the interest of justice requires condonation of the delay. The appeal is a valuable statutory right. In exercise of writ jurisdiction to do complete justice and provide opportunity of hearing on merits of the appeal, we condone the delay by imposing costs of Rs. 20,000/-. The appellate authority shall consider and decide the appeal on merits in accordance with law, expeditiously. The Costs shall be deposited in two (02) weeks from the date of receipt of copy of this order before the appellate authority.

13. The Writ Petition is allowed in the aforesaid terms.

14. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand dismissed.

AJAY

*In favour of assessee.