

Bombay HC orders restoration of GST registration cancelled u/s 29(1) of the CGST Act

The Hon'ble Bombay High Court ("**the High Court**") in the case of *M/s. Euro Pratik Sales Corporation [W.P No.3380 OF 2022 dated November 17,2022]* allowed Petitioner to submit a physical application for restoration of Goods and Services Tax ("**GST**") registration where application of cancellation was filed by petitioner.

Facts:

M/s Euro Pratik Sales Corporation ("**the Petitioner**") was registered under GST Law. The Petitioner closed his business and applied for cancellation of GST registration, which was later granted to him.

At the time of the cancellation of the GST registration, the Petitioner had deemed excise credit of a sum of Rs. 39 Lakhs. Though the Petitioner was entitled to claim transitional credit in GST, however, could not transit the credit because the Petitioner's registration was cancelled.

According to Section 30 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**"), cancellation of registration can only be revoked in case where registration was cancelled by the proper officer on his own motion.

In the present case, the Petitioner suo moto filed an application for cancellation of registration. It was observed that GST law did not have any provision for revocation in such case. Petitioner prayed the High Court to allow the Petitioner to file GST TRAN-1 manually or online.

Issue:

Whether cancellation of GST registration can be revoked in case where Petitioner has suo moto requested for cancellation of GST registration?

Held:

The High Court held as under:

- The Petitioner could not be permitted to forgo a sum of Rs. 39 Lakhs which according to Petitioner, it was entitled as credit under GST law, particularly when Section 29(3) of the CGST Act states that cancellation of the registration does not affect the liability of the taxpayer to pay any tax, dues for any period including prior to the date of cancellation whether or not such dues are determined before or after the date of cancellation of registration.
- Therefore, it was imperative for the Petitioner to be permitted to transit the credit to new GST regime.

Hence, the High Court allowed Petitioner to submit physical application for restoration of GST registration.

Relevant Provision:

Section 29(3) of the CGST Act

The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

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