



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.4211 OF 2025

Kishore Nichani, Age 60 years,
OccBusiness, R/o.21 A, Nichani Kutir,
Juhu Tara Road, Juhu,
Mumbai-400 049.

Petitioner

versus

1. The Union of India through
Secretary, Ministry of Finance,
Department of Revenue, North Block,
New Delhi.
2. The State of Maharashtra through
Secretary, Ministry of Finance,
Department of Revenue, Mumbai.
3. The State Tax Officer,
MUM-VAT-C-923, Cabin no.328,
3rd floor, GST Bhavan, MTNL Building,
Love Lane, Magzaon, Mumbai-400 010.

Respondents

Mr.Bharat Raichandani (through V.C) with Mr.Aditya Shinde for Petitioner.

Mr.Amar Mishra, AGP, for Respondent State.

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

DATE: 27th January 2026

ORAL JUDGMENT - (Per : G.S.Kulkarni, J.) :-

1. Rule. Respondents waive service. By consent of the parties heard finally.

2. In this petition filed under Article 226 of the Constitution, the Petitioner is aggrieved by the actions of Respondent no.3 in not restoring Petitioner's Goods and Service Tax (GST) registration, which came to be cancelled on the ground of Petitioner's failure to file returns for a period of more than six

months. The Petitioner hence seeks a writ to be issued to the Respondents to restore the Petitioner's GST registration. The substantive prayers as made in the petition read thus :

“(b) that this Hon’ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India, calling for the records pertaining to the cancellation of the Petitioner’s registration and after going into the validity and legality thereof be pleased to direct the Respondents to restore the GST registration of the Petitioner forthwith, with all consequential benefits, including but not limited to enabling the Petitioner to file pending returns and make payment of tax, interest and late fees, if any, in accordance with law;

(c) that this Hon’ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other writ, order or direction under Article 226 of the Constitution of India, calling for the records pertaining to the cancellation of the Petitioner’s registration and after going into the validity and legality thereof be pleased to direct the Respondents to allow the Petitioner to file pending returns as may be necessary for the regularization of compliance;

(d) that this Hon’ble Court be pleased to issue a writ of Mandamus or any other writ, order or direction directing the Respondents to treat the Petitioner’s representation dated 04.08.2025 (Exhibit-) as an application for revocation of cancellation under Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017 and further direct the Respondents to forthwith restore the Petitioner’s GST registration (GSTIN 27AABPN8898C1ZB) with effect from the date of its cancellation and allow the Petitioner to file all pending GST returns upon payment of applicable late fees, if any.”

3. It is the case of the Petitioner that he entered into a business conducting arrangement with M/s.Silver Beach Entertainment & Hospitality Private Limited for the purpose of ‘Running a restaurant and a Bar’ from his premises. Under the said agreement, the day to day business operations remained with the conducting company and the Petitioner remained the owner of the property. On 19th July 2018, the Petitioner was duly granted registration under the Central Good and Service Act, 2017 (‘CGST Act’). Further, the Petitioner also filed his returns for

the month of July-2017. The Petitioner has contended that however, he was subsequently unable to manage GST compliance due to severe illness and bed rest from July-2017 to December-2018.

4. On such backdrop, on 30th November 2018, the Respondent no.3 issued a show cause notice to the Petitioner proposing cancellation of registration retrospectively from 1st July 2017 on the ground of failure to file returns for more than six months. Consequently, an order dated 15th December 2018 came to be passed in form GST REG-19, whereby the GST registration of the Petitioner was cancelled with effect from 1st July 2017. The Petitioner has contended that thereafter the Petitioner took steps and made payment of taxes. Thereafter, the Petitioner filed an application dated 16th January 2020 seeking revocation of cancellation of GST registration. Such application of the Petitioner dated 16th January 2020 was granted by Respondent no.3 on being satisfied with the reasons provided in the revocation application and a revocation order was passed on 12th February 2020. Accordingly the cancellation of GST registration of the Petitioner stood revoked.

5. About nine months thereafter, i.e. on 11th November 2020, the Petitioner was issued a show cause notice seeking explanation as to why the GST registration should not be cancelled. It is the Petitioner's contention that under the proviso to Section 29 of the CGST Act, the GST authority shall not cancel the registration without giving an opportunity of being heard. However, it is the Petitioner's case that in breach of the said proviso, an order dated 21st December

2020 came to be passed whereby the Petitioner's registration came to be cancelled retrospectively with effect from 31st July 2017.

6. The Petitioner contends that the Respondent no.3 thereafter issued an order dated 10th February 2022 demanding interest under Section 50(1) of the CGST Act for the financial year 2017-18. Further, on 25th October 2024, the Central Anti-Evasion Wing conducted a search at the Petitioner's premises and statements were recorded on the same day and on 28th October 2024. On 14th January 2025, the Respondent no.3 issued an intimation in the form DRC-01A under Section 74(5) of the CGST Act ascertaining the tax liability of the Petitioner. On 6th February 2025, the Petitioner in response to the said notice submitted a detailed reply enclosing evidence of voluntary payment of the entire GST liability along with interest and penalty. On such backdrop, another notice was issued by Respondent no.3 to the Petitioner dated 11th February 2025 whereby the Petitioner was called upon to pay additional tax liability in respect of the month of February-2022. The Petitioner co-operated with the GST authorities and without contesting the liability, made the payment under a challan. The details of the challan are set out in the petition and a copy of the challan is also annexed to the petition.

7. The Petitioner has contended that since the entire tax dues were paid, an order in Form DRC-23, dated 13th February 2025 came to be passed by Respondent no.3 restoring the provisionally attached properties and confirming that all pending government dues stand cleared. The Petitioner hence was under a bona fide belief that after discharge of the entire tax liability, the GST registration of the Petitioner would be restored. The Petitioner then made a formal application

on 4th August 2025 to the State Jurisdictional Authority, *inter alia*, stating that since all the tax liabilities stand cleared, the GST registration of the Petitioner be restored. However, no action was taken on such application and for such reason the Petitioner has approached this Court by the present proceedings.

8. Mr.Raichandani, learned counsel for the Petitioner has drawn our attention to Sections 29 and 30 of the CGST Act, as also the corresponding provisions of the CGST Rules being Rule 23 of the CGST Rules, as also the communication dated 21st December 2020 issued by the State Tax Officer. It is Mr.Raichandani's submission that it would be the statutory obligation on the part of GST authorities to restore the Petitioner's registration in the facts and circumstances of the case. It is submitted that from the reading of Section 30, upon clearance of the entire tax dues, the cancellation of the GST registration is revocable and if the registration is not revoked, it would obviously affect the interest of Revenue apart from prejudice being caused to the Petitioner, as his business is virtually stopped. In support of his contention, Mr.Raichandani has placed reliance on several decisions wherein, in similar circumstances, the Court passed orders and restored the cancelled GST registration.

9. On behalf of Respondent no.3, the contesting Respondent, it is fairly submitted that the Petitioner having cleared the tax dues, there would not be any impediment in allowing the petition.

10. We have heard learned counsel for the parties. With their assistance, we have perused the record. At the outset, we may observe that the issue in regard to cancellation of registration of GST is governed by Chapter-VI of the CGST Act,

2017 and similar provisions under the Maharashtra Goods and Services Tax Act, 2017. Section 25 provides for procedure for registration. The relevant provisions in the present facts and circumstances are Section 29, which provides for cancellation or suspension of registration, Section 30 which provides for revocation of cancellation of registration and Rule 23 of the CGST Rules, 2017.

These provisions are required to be noted which read thus :

“Section 29. Cancellation or suspension of registration -

(1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,-

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of Section 25.

Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts;

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard :

Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.

(3) 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.

(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed :

Provided that in case of capital good or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

(emphasis supplied)

Section 30. Revocation of cancellation of registration :

(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in such manner, within such time and subject to such conditions and restrictions, as maybe prescribed.

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application.

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard :

Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.

(3) The revocation of cancellation of registration under the State Goods and Services Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.”

(emphasis supplied)

Rule 23 – Revocation of cancellation of registration :

(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may subject to the provisions of rule 10B, submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of ninety days from the date of the service of the order of cancellation of registration, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding one hundred and eighty days.

Provide further that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns :

Provided also that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration :

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.

(2) (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in FORM GST REG-22 within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specific in clause (a), by an order in FORM GST REG-05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(3) The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in FORM GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in FORM GST REG-24.

(4) Upon receipt of the information or clarification in FORM GST REG-24, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.

(emphasis supplied)

11. There are two fundamental issues which would arise from the conjoint reading of the provisions/rules, firstly, on the grounds which are provided under the provisions of Section 29, it would empower the GST authorities to cancel registration. The cancellation of registration, however, certainly involves civil consequences as it would have an adverse effect on the assessee undertaking its business activities. It is for such reason that the second proviso to Section 29 provides that the officer shall not cancel the registration without giving an opportunity of being heard. Therefore, any action on the part of the authority not adhering to the proviso i.e. not affording an opportunity of being heard, would, *per se*, be in the teeth of Section 29, hence void ab initio. Further, Section 30 which provides for revocation of cancellation of registration authorizes the

concerned tax authority to revoke cancellation of registration of an assessee on fulfilling the requisite conditions which are specified and recognized by such provision. Also an application for restoration of the registration is required to be decided, *inter alia*, after granting an opportunity of being heard to the assessee whose registration is cancelled. Thus, it is not the case that authorities are powerless to pass an order of revocation of cancellation of registration. Sufficient provision in law has been made and such powers are required to be exercised in appropriate cases and in the manner as provided by law and in the facts and circumstances of the case would warrant. However, we find that all these issues are not taken into consideration as in the present case and such matters unwarrantedly reach the Court. In the facts of the present case, the Revenue has taken a clear position that there are no tax dues, as all the demands have stood satisfied.

12. The Courts have consistently taken a view that keeping such registration cancelled and/or not revoking the cancellation of registration, does not enure to the benefit of the Revenue, apart from the prejudice which would be caused to the person whose registration has been cancelled. In **Azaria Corp LLP Vs. The Deputy Commissioner of State Tax (MUM-VAT-E-809) and another** (supra) relied on behalf of the Petitioner, in such context, the Court observed thus :

“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 amount 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.

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 & anr**¹, 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 payments of all dues.”

13. Also **Stanley Aphonsus D’silva Vs. State of Maharashtra**², was a case where registration of the assessee was cancelled for non-filing of returns for more than six months and when the assessee was ready and willing to pay all dues along with interest on the same, the registration of the assessee was directed to be restored by the Division Bench of this Court. A similar view was taken by another coordinate Bench of this Court in **Paramatma Steel Centre Vs. State of Maharashtra**³. We may also refer to the decision of the learned Single Judge of the Madras High Court in the case of **TVL. Saguna Cutpiece Center Vs. Appellate Deputy Commissioner (ST) (GST), Salem**⁴, wherein the Madras High Court was dealing with a case of cancellation of registration and the application for revocation on the cancellation. In such context, referring to the relevant circulars and the notification, the Court held that the purpose of GST registration is only to ensure that just tax gets collected and not to debar or de-recognise assesseees from returning back into the GST fold. It was held that the GST enactment cannot be interpreted so as to deny the right to carry on trade and commerce. The Court in

¹2024-SCC OnLine-2199

² (2025) 29 Centax 47 (Bom.)

³ (2025) 33 Centax 173 (Bom.)

⁴ (2022) (61) G.S.T.L. 515 (Mad.)

the adjudication also referred to the provisions of Rule 23 providing for Revocation of cancellation of registration and the Circulars issued in that regard by the Central Board of Indirect Tax and Customs dated 22nd December 2020.

14. In the light of the above discussion, in our clear opinion, the facts of the present case are not in dispute that there is no outstanding GST liability of the petitioner, and hence, in these circumstances, the petitioner was entitled to the benefit of the restoration of the petitioner's GST registration and to that effect the petitioner's application for revocation of the cancellation of its registration was required to be allowed. In these circumstances, the petition needs to succeed as respondent No.3 has clearly not acted in consonance of the provisions of Section 30 read with Rule 23 of the CGST Rules.

15. The writ petition is accordingly allowed in terms of prayer **clause (b)**.

16. Rule is made absolute in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)