

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition (M/S) No. 3263 of 2022

Devendra Prasad.....Petitioner

-Versus-

Assistant Commissioner, State Goods & Service Tax, Sector, 6
Dehradun and Another

.....Respondents

Present: Mr. Ravi Sehgal, learned counsel holding brief of Mr. Rohit Arora, learned counsel for the petitioner.
Mr. Tarun Lakhera, learned Brief Holder for the State of Uttarakhand.

Date of Hearing and Order: 16.12.2022

Sri Sanjaya Kumar Mishra, J.

Upon hearing the learned counsel for the parties, the Court has passed the following order:-

1. By filing this writ petition, the petitioner has prayed for the following reliefs:-
 - a. *Issue a writ, order or direction in the nature of Certiorari quashing the impugned Show Cause Notice for Cancellation of Registration bearing Reference No. ZA051120004672B dated 06.11.2020 (Annexure No. 2) issued by the Respondent no. 1.*
 - b. *Issue a writ, order or direction in the nature of Certiorari quashing the impugned Order for Cancellation of Registration bearing Reference No.*

ZA0512200027076 dated 03.12.2020 (Annexure No. 1) issued by the Respondent no. 1.

- c. Issue writ, order or direction, in the nature of Mandamus directing the Respondent to revive the GST registration of the Petitioner.*
- d. Issue any other writ, order or direction and/or allow any other consequential relief as expedient in law, on the facts and circumstances of the case.*

2. It is submitted by the learned counsel for the petitioner that the issue is covered by the Division Bench judgment of this Court passed in SPA No. 123 of 2022 on 20.06.2022, wherein this Court has held that the Commissioner is not an adjudicating authority, and, therefore, appeal under Section 107 of the Uttarakhand GST Act, 2017 shall not lie to the Commissioner.
3. The learned counsel for the revenue would submit that as per Section 30 of the U.K. GST Act, the petitioner has an alternative forum of filing an application for revocation of the cancellation of GST with the further condition that the petitioner must file appropriate returns for the six months, in which he failed to upload

in the portal of the GST Department as per the relevant rules.

4. Since, the petitioner failed to furnish returns for a continuous period of six months and show cause notice has been sent to him, it is directed that the petitioner shall file an application for revocation under Section 30 of the CGST Act in terms of Rule 23 of the CGST Rules. Though it is time barred, we are inclined to wave the limitation and direct the petitioner to file an application for reviving of G.S.T. registration before the Revenue within a period of 21 days, hence. He shall also comply the other provisions of Section 30 of the U.K. GST Act, that is submission of returns for the defaulted six months and any further completed months after the revocation. In such case, if dues are found to be due from the petitioner and he pays the same, then his case shall be considered liberally by the revenue and shall be disposed of within a period of 30 days. Accordingly, the writ petition is disposed of.

(Sanjaya Kumar Mishra, J.)

16.12.2022

(Grant urgent certified copy of this order, as per Rules)