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38 wp 11834.25

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 11834 OF 2025

M/s. Panchshil Infrastructure  
a Partnership Firm registered under  
Indian Partnership Act, 1932 and  
having its registered address at  
Office No. G-5, Patil Plaza,  
Parner, Nagar- Pune Road  
Supa, Ahmedngar - 414301  
Through it's proprietor  
Nipun Govind Kakade

... PETITIONER

V/s.

1. The State of Maharashtra
2. The Commissioner  
GST Bhavan, Mazgaon,  
Mumbai-400 010.
3. The State Tax Officer  
Jamkhed 701,  
Near SBI Main Branch,  
GPO Chowk,  
Ahilyanagar (MH)-414001
4. The Deputy Commissioner  
of State Tax (Appeals),  
Near SBI Main Branch,  
GPO Chowk,  
Ahilyanagar (MH)-414001.
5. The Union of India, through  
the Revenue Secretary  
Ministry of Finance,  
Department of Revenue,  
New Delhi-100001.

6. Central Board of Indirect Taxes  
Through its Chairman  
Department of Revenue,  
Ministry of Finance, North Block  
New Delhi-110001.

.... **RESPONDENTS**

.....  
Mr. Abhijeet Dagdiya, Advocate for the Petitioner (through VC)  
Mr. S.R. Wakale, AGP for the Respondent/State  
Mr. D.S. Ladda, Advocate for the Respondent Nos.5 & 6

.....

**CORAM : NITIN B. SURYAWANSHI &  
VAISHALI PATIL JADHAV, JJ.**

**DATE : 15<sup>th</sup> April, 2026**

**ORAL JUDGMENT :- (Per: Nitin B. Suryawanshi, J.)**

1. Rule. Rule made returnable forthwith. Heard finally by the consent of the parties.

2. By this petition, the Petitioner is seeking following reliefs:

*A] This Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India to quash and set aside the impugned Order dated 26.10.2021 passed by Respondent No. 3 and order dated 11.12.2024 passed by Respondent No. 4;*

*C] Alternatively, this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ directing the Respondent No.3 to re-instate the earlier registration of the Petitioner along with associated rights and liabilities in light;”*

3. In support of the petition, the Petitioner relies on the following decisions:

i. Rohit Enterprises V/s. The Commissioner State GST; 2023 (2) TMI-759 Bom HC.

ii. M/s. Sambhaji Multi Services V/s. The Commissioner State GST; 2024 (7) TMI 804 – Bom HC.

iii. Shri Ganesh Majoor Sahkari Sanstha Limited V/s. The Union of India 2024 (12) TMI 57 Bom HC

iv. Neo Built V/s ETO Cum Proper Officer; 2022 (6) TMI 463 (Punjab and Haryana High Court)

v. ENS Enterprises V/s. The Superintendent, GST 2024 (1) TMI 1363 (Madras High Court)

4. Learned AGP strenuously opposed the petition stating that there is a delay of two years in filing the appeal and the Deputy Commissioner has no authority to condone the delay. Therefore, no fault can be found with the impugned order.

5. This Court in similar facts in Rohit Enterprises (supra) has observed as follows:

*“5. The petitioner filed appeal under section 107 of the Maharashtra Goods and Service Tax Act, 2017 challenging cancellation of registration. It was registered as Appeal No.*

*DCST/Apl./E-001/GST-Revocation/2022-2023/B-619. The Dy. Commissioner/State Tax (Appeal), Aurangabad Division rejected the appeal on the ground of limitation that the appeal has been submitted beyond the prescribed period provided under section 107 (1) and 107 (4) of the MGST Act, 2017.*

9. *In our view, the provisions of GST enactment cannot be interpreted so as to deny right to carry on Trade and Commerce to any citizen and subjects. The constitutional guarantee is unconditional and unequivocal and must be enforced regardless of shortcomings in the scheme of GST enactment. The right to carry on trade or profession cannot be curtailed contrary to the constitutional guarantee under Art. 19(1)(g) and Article 21 of the Constitution of India. If the person like petitioner is not allowed to revive the registration, the state would suffer loss of revenue and the ultimate goal under GST regime will stand defeated. The petitioner deserves a chance to come back into GST fold and carry on his business in legitimate manner.*

10. *There is one more aspect as far as the issue regarding limitation in filing the appeal under Section 107 of MGST Act is concerned. Indeed the Deputy Commissioner of State Tax has no power to condone the delay beyond 30 days. But then one cannot overlook the aspect of provisions stipulating limitations. The objective is to terminate the lis and not to divest a person of the right vested in him by efflux of time.*

11. *Since it is merely a matter of cancellation of registration, the question of limitation should not bother us since it cannot be said that any right has accrued to the State which would rather be adversely affected by cancellation.*

*12. In this regard, a reference can be made to the judgment of the Supreme Court in the case of Mafatlal Industries Ltd. Vs Union of India reported in (1997) 5 SCC 536. The supreme court observed that the jurisdiction of the High Court under Art. 226 of the Constitution of India or Supreme Court under Article 32 cannot be restricted by the provision of any Act to bar or curtail remedies. True that while exercising the constitutional power, the Court would certainly take note of legislative intent manifested in the provisions of the Act and would exercise jurisdiction consistent with the provisions of enactment. The constitutional Courts in exercise of such powers cannot ignore law nor can it override it”*

6. This decision is followed by Co-ordinate Bench of this Court in Shri Ganesh Majoor Sahkari Sanstha Limited (Supra). The decision of Coordinate Bench is binding on us. Writ Petition therefore deserves to be allowed.

7. In other decisions relied upon by the Petitioner similar view is taken, however, different reliefs are granted in the facts of those cases.

8. In the result, Writ Petition is allowed. Order dated 16.10.2021 canceling the GST registration of the Petitioner passed by the State Tax Officer and the order dated 11.12.2024 passed by the Deputy Commissioner of State Tax, Aurangabad (Appeal No. Ref. No.ZD2712240386189) are quashed and set side.

9. We hold that the registration no. GSTIN 27AAVFP4806C1Z2 in the name of Petitioner is valid from 01.03.2020 onwards subject to the condition that the Petitioner files up to date GST returns and deposits, entire pending dues along with applicable interest, penalty, late fees in terms of Rule 23(1) of the MGST Rules 2017.

10. Rule is made absolute in the above terms.

**[VAISHALI PATIL JADHAV, J.]**

**[ NITIN B. SURYAWANSHI, J.]**

*mubashir*