

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 14521/2022

Poonamchand Saran S/o Late Mangalram Saran, Aged About 54 Years, Proprietor Saran Petroleum Service, N.h. 89, Nokha Road, Village Bhamastar, Tehsil Nokha, District Bikaner, Rajasthan 334801.

----Petitioner

Versus

1. Union Of India, Through Secretary Finance, Ministry Of Finance, North Block New Delhi 110001.
2. Additional Commissioner (Appeals), Central Goods And Service Tax, Jodhpur
3. Superintendent, Works Contract And Leasing Tax, Circle Bikaner, Jodhpur, Rajasthan.

----Respondents

D.B. Civil Writ Petition No. 14524/2022

Mohan Singh S/o Late Shri Salam Singh, Aged about 85 years, through his authorized representative Kiratan Singh Deora S/o Shri Mohan Singh, R/o Village Sadalwa, District Sirohi, Rajasthan.

----Petitioner

Versus

1. Union Of India, Through Secretary Finance, Ministry Of Finance, North Block New Delhi 110001.
2. Superintendent, Circle Sirohi, Ward-II, CGST Abu Road, Rajasthan.

----Respondents

For Petitioner(s)	:	Mr. Vikas Balia, Sr. Advocate assisted by Mr. Sharad Kothari, Mr. Priyanshu Arora & Mr. Mayank Taparia
For Respondent(s)	:	Mr. Rajvendra Saraswat

**HON'BLE MR. JUSTICE SANDEEP MEHTA
HON'BLE MR. JUSTICE KULDEEP MATHUR**

Order

29/09/2022

Issue notice to the respondents.

Shri Rajvendra Saraswat, Advocate, Standing Counsel for GST Department puts in appearance on their behalf.

With consent of learned counsel for parties and looking to the urgency involved, the writ petitions are being heard and finally decided today itself.

The petitioners were dealers registered under the GST Act. Their registration came to be cancelled by the competent authority vide orders dated 09.09.2022 (passed in SBCWP No.14521/2022) and 09.05.2022 (passed in SBCWP No.14524/2022).

It is not disputed that appeal against cancellation of the GST registration can be filed within thirty days which can be extended by a further period of 30 days. The petitioner Poonamchand Saran filed the e-appeal in time but could not submit the hard-copy. On the other hand, the petitioner Mohan Singh failed to submit an appeal against the cancellation order dated 09.05.2022. The petitioner Poonamchand has challenged the order dated 09.09.2022 whereby his appeal has been dismissed on the ground of same being time-barred. The petitioner Mohan Singh has raised the grievance of not being able to file an appeal on account of unavoidable reasons.

Learned counsel Shri Balia assisted by Mr. Sharad Kothari placed reliance on the following judgments rendered by various High Courts:-

1. M/s G.G. Agencies Girijeshwar Rice Mill vs The State of Karnataka & Ors. (Writ Petition No.15344 of 2022, decided on 18.08.2022)
2. Vinod Kumar Vs. Commissioner Uttarakhand State GST & Ors. : 2022 (7) TMI 128 - Uttarakhand High Court (Special Appeal No.123 of 2022)
3. TVL. Suguna Cutpiece Centre vs. The Appellate Deputy Commissioner (ST) (GST), The Assistant Commissioner (Circle), Salem Bazaar : 2022 (2) TMI 933 - Madras High Court
4. M/s Trans India Carco Carriers Vs. The Assistant Commissioner (Circle) W.P. Nos.18537 of 2022 and etc. - Madras High Court.

and urged that the petitioners have been left remediless for hyper-technical reasons of the appeal against cancellation GST registration not being filed in hard-copy/in time. He contended that owing to cancellation of GST registration, the petitioners are being deprived of the opportunity of doing business which has resulted into loss of all avenues of earning livelihood and is violative of right to life and liberty as guaranteed by Article 21 of the Constitution of India. He thus, urges that one more opportunity deserves to be given to the petitioners to file the appeal in the proper format and the competent authority may be directed to decide such appeal as per law.

Shri Saraswat, vehemently and fervently opposed the submissions advanced by the petitioners' counsel. However, he too is not in a position to dispute the fact that the legal proposition as

expounded by various High Courts in the judgments referred to supra, covers the controversy at hand.

It cannot be denied that the petitioners herein would not be able to continue with their business in absence of GST registration and thus, would be deprived of their livelihood which amounts to violation of right to life and liberty as enshrined in Article 21 of the Constitution of India.

In this background, the order dated 09.09.2022 passed in the case of Poonamchand Saran (Writ Petition No.14521/2022) is set aside. Both the petitioners are given liberty to file appeal against the cancellation of their GST registration to the competent authority within ten days from today. Upon such appeals being filed, the same shall be considered and decided on all aspects in accordance with law excluding the bar of limitation in preferring the appeal by the petitioners.

With the above observations and directions, the writ petitions are disposed of.

(KULDEEP MATHUR),J

(SANDEEP MEHTA),J

98-Sudhir Asopa/-