

TAX INFO

Dated 13.10.2022

Latest update on GST Law: **Time-barred appeal allowed considering the violation of right to life and liberty as guaranteed by Article 21 of the Constitution of India** as given in judgement by **Rajasthan High Court.**

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Name of Petitioner	Poonamchand Saran and Mohan Singh
Name of Respondent	Union of India
Court	Rajasthan High Court
Date of Judgement	29.09.2022
Appeal No.	D.B. Civil Writ Petition No. 14521/2022 and D.B. Civil Writ Petition No. 14524/2022

Brief Facts of the Case Law:

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 and 09.05.2022. The 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 Poonam Chand 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 Poonam Chand 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.

Contention of the Petitioners:

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. Due 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. 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. Reliance was put on the various High Court judgement in favour of the Petitioner.

Findings and Decision of the Court:

It cannot be denied that the petitioners 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.

Thus, the orders dated 09.09.2022 and 09.05.2022 passed were set aside. Both the petitioners were 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.

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