

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 23556 of 2022**

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ALLYSSUM INFRA
Versus
UNION OF INDIA

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Appearance:

MR ABHAY Y DESAI(12861) for the Petitioner(s) No. 1,2
GOVERNMENT PLEADER for the Respondent(s) No. 4
MS HETVI H SANCHETI(5618) for the Respondent(s) No. 1,3,5,6
NOTICE SERVED BY DS for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE N.V.ANJARIA
and
HONOURABLE MR. JUSTICE DEVAN M. DESAI

Date : 17/04/2023

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)

Heard learned advocate Mr. Abhay Desai for the petitioners and learned advocate Ms. Hetvi Sancheti for the respondents-department.

2. The petitioner, which is a partnership firm engaged in the business of real estate projects, has challenged in this petition order of cancellation of its Goods and Services Tax Registration. The Goods and Services Tax registration of petitioner came to be cancelled on the ground that the petitioner did not file Goods and Service Tax returns.

2.1 While the order was passed on 11.1.2022, the effect thereof was given from 10.09.2021.



3. When the petition came up for consideration, it was pointed out by learned advocates that the competent authority under the Goods and Services Tax Act, 2017 have issued notification No. 3/2023 dated 31.3.2023. It is contemplated in the said notification that on conditions being fulfilled, the cancellation of registration effected on the ground of non-filing of the GST returns, could be revoked.

4. The said notification stands to the benefit of the petitioners. It was submitted on behalf of the petitioners that the petitioners' case fall within the compass of the said notification.

5. In the aforesaid view, the petitioner is permitted to make application to the competent authority seeking the benefit of the aforesaid resolution dated 31.3.2023 bearing No. 3/2003. As and when such an application is made, the competent authority shall deal with the same and give the benefit of this notification to the petitioner.

5.1 It is made clear that this court has not expressed any opinion on the merits of the case of the either side.

6. It was submitted at this stage by learned advocate for the petitioners that retrospective cancellation of the GST registration of the petitioners may come in its way for claiming Input Tax Credit for the period from the date of cancellation till the date of restoration of the registration.

6.1 In this regard it is observed that when the competent authority considers the issue of revocation of cancellation of petitioners' GST registration under the aforesaid notification, the petitioners shall be entitled to lodge its claim for availment of Input Tax Credit in respect of



the period from the cancellation of the registration till the registration is restored.

7. The petition stands disposed of in the above terms and with the observations as above.

Direct service is permitted.

(N.V.ANJARIA, J)

C.M. JOSHI

(D. M. DESAI, J)