

COMMERCIAL TAXES DEPARTMENT

From, Thiru M.A.Siddique, I.A.S., Principal Secretary/Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai-600 005	To, All Territorial Joint Commissioners and Joint Commissioner & Deputy Commissioners, GST Appeals.
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P/35/2021-ADC(RC AND M)-CCT-CTD DATED: 07-04-2021

Sir/Madam,

Sub:	GST Act, 2017- Registration - Returns Not filed -Registration Cancelled - Revocation of Cancellation of Registration - Application filed - Period of Limitation - Supreme Court order - Suo Motu Writ Petition- Cognizance for Extension of Limitation - Instructions issued -Reg.
Ref:	Honourable Supreme Court order in Suo-Motu Writ Petition (Civil) No.3 of 2020 dated 08-03-2021.

Your attention is invited to the reference cited, wherein the Honourable Supreme Court, in view of Global Pandemic Situation across the Country, took Suo-Motu cognizance of the situation arising out of the difficulties faced by the litigants in filing petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or any under special law and finally by way of an order dated 08-03-2021 has issued following directions:-

1. In computing any period of Limitation, for any suit, appeal, application or proceedings, the period from 15-03-2020 till 14-03-2021 shall stand excluded. Consequently, the balance period of Limitation remaining as on 15-03-2020, if any shall become available with effect from 15-03-2021.
2. In cases, where limitation would have expired during the period between 15-03-2020 till 14-03-2021, notwithstanding the actual period of limitation remaining, all persons shall have a limitation period of 90 days from 15-03-2021. In the event, the actual balance period of limitation remaining, with effect from 15-03-2021, is greater than 90 days, that longer period shall apply.
2. Under Article 142 of the Indian Constitution, the above Supreme Court order shall be applicable for the Tax Payers under GST Act, 2017 also and therefore, proper officer defined under this Act is bound to act in accordance with the directions issued in the above Supreme Court order.

3. At present, due to non-filing of returns by the Tax Payers, the Proper officer after issue of notice cancel the Registration issued under GST by invoking Section 29(c) of GST Act.

4. The affected tax payers, whose registration have been cancelled for non-filing of returns during the period from 15-03-2020 to 14-03-2021, when approached the proper officer for Revocation of Cancellation of Registration after the prescribed period of 30 days, the said application was rejected by the proper officer on the ground that the limitation period prescribed by the Act had already expired.

5. Hence, all the tax payers whose applications have been rejected by the proper officer for the above said reasons approached the DC, GST Appeals and obtained order of Revocation of cancellation.

6. The Proper officer, being quasi-judicial authority and Deputy Commissioner, GST Appeals, Joint Commissioner, GST Appeals being judicial authorities are also bound by the order of the Supreme Court and hence, for the purpose of revoking the cancellation of Registration issued under GST Act, 2017, following instructions are issued:-

6.1. If the Registration certificate issued under GST is cancelled for the reasons referred in Section 29(a) to (d), and any application for revocation of cancellation of Registration received after thirty days from the date of cancellation, and if such period falls between 15-03-2020 till 14-03-2021, the balance period of Limitation remaining as on 15-03-2020, if any shall become available with effect from 15-03-2021.

6.2. The prescribed period of 30 days shall be calculated from the date of cancellation of Registration Certificate by excluding the days falling during the period from 15-03-2020 to 14-03-2021.

6.3. If the tax payer filed application for revocation of cancellation of Registration and if the said date of filing application falls within 30 days after excluding the period from 15-03-2020 to 14-03-2021, the Proper officer shall pass revocation order on merits subject to fulfillment of conditions stipulated in the Rules by considering the said application filed within 30 days.

6.4. If any application for revocation of cancellation of Registration is already rejected on the ground of exceeding 30 days without considering the period from 15-03-2020 to 14-03-2021, the said tax payers may be requested to file an application again and orders passed on merits.

6.5. If any appeals have been filed against the Cancellation of Registration order by the Tax Payers, and if the said period falls beyond the period the prescribed period specified under Section 107, then the Deputy Commissioner, GST Appeals and Joint Commissioner, GST Appeals shall admit the application and pass

order on merits if the prescribed period specified under Section 107 available with effect from 15-03-2021 after excluding the period from 15-03-2020 to 14-03-2021.

6.6. In paragraph 2 of the order of Honourable Supreme Court, it has been ordered that in cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply. Therefore, if the application for revocation has been filed in less than 30 days prior to 15.03.2020 or after 15.03.2020, the limitation period of 90 days would be available after 14.03.2021. Therefore, Proper officer may proceed to finalize such applications for revocation of cancellation of registration on merits, even if they have been rejected during this period on the grounds of exceeding the limitation period of 30 days provided in the Act. The appellate authorities shall also take into account this extended limitation period provided by Honourable Supreme Court.

All the Joint Commissioners of Territorial Divisions are hereby directed to issue appropriate instructions to the proper officers working under their control and to ensure that the above instructions are followed without deviation.

Sd /- M.A.Siddique,
Principal Secretary/
Commissioner of Commercial Taxes

Copy to
All the Additional Commissioners,
Office of the Commissioner of Commercial Taxes,
Chepauk, Chennai-05.

//Forwarded by Order//

Sup
12/4/2021
Superintendent

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12/4/2021