

Ruling

ITC Entitlement after cancellation of GST registration can be considered during revocation.

Observations & Findings

The appellant M/s R.K. Jewelers filed a writ petition in the Rajasthan High Court challenging the order dated 02.02.2022 passed by the the Appellate Authority, Commercial Tax, Jodhpur, whereby its GST registration has been cancelled on the ground of non-filing of GST return by it. The Appellate Authority also rejected the appeal filed by the petitioner-firm against the said order.

However, during the pendency of this writ petition, the competent authority under the Goods and Services Tax Act, 2017 had issued a notification dated 31.03.2023 and as per the said notification, on the conditions being fulfilled, the cancellation of registration effected on the ground of non-filing of GST return, could be revoked.

The Rajasthan High Court is of the opinion that the case of the petitioner firm covers with the above mentioned notification and the petitioner firm can move an application before the competent authority with a prayer for restoration of its GST registration subject to fulfilment of the conditions mentioned in the said notification.

The Court also made clear that when the competent authority considers the issue of revocation of cancellation of petitioner firm GST registration under the above mentioned notification, the petitioner-firm, 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.