

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Raja Basu Chowdhury

WPA 14557 of 2024

Pranabesh Sarkar
Versus
Superintendent CGST & CX, Kalyani Division,
Range-V & Ors.

For the petitioner : Mr. Sandip Choraria
Mr. Rishav Manna

For the State : Mr. Uday Sankar Bhattacharya
Mr. Sujit Mitra
Ms. Banani Bhattacharya

For the respondent no.3: Mr. Debasish Chakraborty
Mr. Soumen Bhattacharya

Heard on : 5th August, 2024

Judgment on : **5th August, 2024.**

Raja Basu Chowdhury, J:

1. The present writ application has been filed, inter alia, challenging the order of cancellation of registration of the petitioner under the Central Goods and Services Tax Act, 2017 and the West Bengal Goods and Services Tax Act, 2017 (Hereinafter referred to as the "said Act").

2. It is the petitioner's case that on or about 8th July, 2022, the petitioner was served with a notice of show cause as to why the registration of the petitioner under the said Act shall not be cancelled for the petitioner having failed to file his returns for a continuous period of six months.

3. Mr. Choraria, learned advocate appearing for the petitioner submits that the petitioner was and is all along interested to comply with the provisions of the said Act, unfortunately by reasons of his failure to file response the aforesaid fact could not be brought to the notice of respondents.

4. By placing reliance on a judgment of the Hon'ble Division Bench of this Court delivered in the case of ***Subhakar Golder versus Assistant Commissioner of State Tax, Serampore Charge (MAT 639 of 2024)*** on 9th April 2024, it is submitted that in similar circumstances, similar order of cancellation of registration had been set aside, subject to the condition that the petitioner files returns for the entire period of default, pays requisite amount of tax and interest and fine and penalty. He submits that his Court may be pleased to set aside the order of cancellation and allow the petitioner to file his returns on the same terms.

5. Mr. Bhattacharya, learned advocate appearing for respondent nos. 1 and 2 on the other hand submits that the petitioner had not complied with the statutory provisions and it is for such reason, the registration of the petitioner under the said Act was cancelled.

6. According to the respondent authorities the petitioner was given opportunity to show cause. Since, no reply to the show cause was given by the petitioner, the authorities had cancelled the registration. There is no irregularity on the part of the authorities in cancelling the registration.

7. Heard the learned advocates appearing for the respective parties and considered the materials on record.

8. Admittedly, I find that the registration of the petitioner had been cancelled on the ground of non-filing of returns. It is not the case of the respondents that the petitioner had been adopting a dubious process to evade tax. Taking note of the fact that the suspension/revocation of license would be counterproductive and works against the interest of the revenue since, the petitioner in such a case would not be able to carry on his business in the sense that no invoice can be raised by the petitioner and ultimately would impact recovery of tax, I am of the view that the respondents should take a pragmatic view in the matter and permit the petitioner to carry on his business.

9. I find from the submissions made by the respondents that unless, the petitioner files his returns, the respondents cannot determine the final liability.

10. Having regard to the aforesaid and taking note of the direction issued by the Hon'ble Division Bench of this Court in the case of **Subhankar Golder (supra)**, I propose to set aside the order dated 24th August, 2022 cancelling the registration of the petitioner subject to the

condition that the petitioner files his returns for the entire period of default and pays requisite amount of tax and interest and fine and penalty, if not already paid.

11. It is made clear that if the petitioner complies with the directions/conditions noted above, within 4 weeks from the date of receipt of the server copy of this order, the petitioner's registration under the said Act shall be restored by the Jurisdictional Officer. However, if the petitioner fails to comply with the directions as aforesaid, the benefit of this order will not enure to the petitioner and the writ petition would stand automatically dismissed.

12. For the purpose of compliance of the above directions, the respondents are directed to activate the portal within one week from date, so that the petitioner can file his returns, pays requisite amount of tax, interest, fine and penalty if not already paid.

13. With the above direction and observations, the writ petition is disposed of without any order as to costs.

14. All parties to act on the basis of the server copy of this order duly downloaded from this Hon'ble Court's official website.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)