

GAHC010149392023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3953/2023

MD. NURUDDIN AHMED PATHAN
S/O LATE ARMAN ALI, R/O EX-POLICE LINE, TEZPUR, P.O.-TEZPUR, P.S.-
TEZPUR, DIST-SONITPUR, ASSAM-784001

VERSUS

THE UNION OF INDIA AND 7 ORS
REPRESENTED BY THE FINANCE SECRETARY, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, HAVING ITS OFFICE AT NORTH BLOCK, NEW
DELHI-110001

2:THE UNDER SECRETARY TO THE GOVT. OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
HAVING ITS OFFICE AT NORTH BLOCK
NEW DELHI-110001

3:DESIGNATED COMMITTEE
REPRESENTING THROUGH THE PRINCIPAL COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
GST BHAWAN
KEDAR ROAD
FANCY BAZAR
GUWAHATI-781001

4:THE CHIEF COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
GST BHAWAN
KEDAR ROAD
FANCY BAZAR
GUWAHATI-781001

5:THE COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
DIBRUGARH
MILANNAGAR
DIBRUGARH
ASSAM
PIN-786003

6:THE ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
TEZPUR DIVISION
L.B. ROAD
TEZPUR
ASSAM
PIN-784001

7:THE PRINCIPAL COMMISSIONER OF STATE GOODS AND SERVICE TAX
KAR BHAVAN
DISPUR
GUWAHATI-05

8:THE DEPUTY COMMISSIONER OF STATE TAX
DIBRUGARH-1
DIBRUGARH
SIBSAGAR ZONE
ASSA

Advocate for the Petitioner : MR. A R SHOME

Advocate for the Respondent : DY.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 05-08-2023

Heard Mr. B. Pushilal, learned counsel for the writ petitioner. Also heard Mr. S.C. Keyal, learned standing counsel, GST authority appearing on behalf of respondent Nos. 1 to 6 and Mr. B. Choudhury, learned standing counsel, Tax Department, Assam appearing

on behalf of respondent Nos. 7 and 8.

The writ petitioner herein claims to be a contractor by profession engaged in execution of Govt. contracts. He was holding a GST registration with the authorities. However, the GST registration of the petitioner has been cancelled by order dated 10-08-2021 due to failure on his part to file six consecutive returns. The petitioner is also aggrieved by the demand notice dated 19-10-2022 issued by the authorities demanding payment of Rs. 1,0011,892/- GST calculating the amount @ 28%.

Mr. Pushilal submits that the petitioner could not submit his returns due to serious health problems faced by him during the relevant period. According to the petitioner, he had suffered a cardiac arrest just before the outbreak of the Covid-19 pandemic and thereafter, his life was severely restricted due to the pandemic. The learned counsel for the writ petitioner further submits that as per the laid down norms, the petitioner is liable to pay GST only @ 12% and not @ 28%, as has been demanded by the authorities. Assuring this Court that the petitioner is ready and willing to pay the amount of GST due and payable by him under the law, in installments, if such an opportunity is granted to him, Mr. Pushilal prays for a direction upon the respondents to consider the representations dated 14-12-2022 (Annexure-6) and 19-01-2022 (Annexure-7) submitted by the petitioner. Mr. Pushilal has further submitted that the petitioner has been regularly paying the GST component on installments and till today, he has already paid more than Rs. 10,80,000/-.

Responding to the above, Mr. S.C. Keyal, learned standing counsel, GST authorities

submits that there is a scheme in operation which permits restoration of GST registration and the prayer for deposit of GST in installments is a matter that is required to be considered by the competent authority. Therefore, he would have no objection, if this writ petition is disposed of with a direction upon the respondents to revisit the notice dated 19-10-2022 insofar as the rate of GST levied on the petitioner is concerned and pass appropriate order on the prayer for restoration of the GST registration as well as installment payment of the amount due and payable by the petitioner. Similar is the stand of Mr. B. Choudhury, learned standing counsel, Tax Department, Assam.

In view of the submission made at the bar and considering the controversy involved in this writ petition, I dispose of this writ petition with a direction upon the respondent No. 6 to revisit the notice dated 19-01-2022, to consider the grievance of the petitioner as projected in the representations dated 14-12-2022 and 19-01-2022 and to pass appropriate order(s) therein after giving an opportunity of personal hearing to him.

It is made clear that until such time a reasoned order is passed by the respondent No. 6, as per the direction issued by this Court, no coercive action shall be initiated against the writ petitioner.

Writ petition stands disposed of accordingly.

JUDGE

GS

Comparing Assistant