

GAHC010246952022



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

Case No. : WP(C)/170/2023

AZIZUR RAHMAN CHOUDHURY
S/O- LT. AHSAN ALI, R/O- AMINPATTY SK BHUYAN PATH, NAGAON,
ASSAM, PIN- 782001

VERSUS

THE UNION OF INDIA AND 5 ORS
REP. BY THE FINANCE SECY., MINISTRY OF FINANCE, DEPTT. OF
REVENUE, HAVING ITS OFFICE AT NORTH BLOCK, NEW DELHI- 110001

2:THE UNDER SECRETARY
TO THE GOVT. OF INDIA
MINISTRY OF FINANCE
DEPTT. OF REVENUE
NORTH BLOCK
NEW DELHI- 110001

3:DESIGNATED COMMITTEE
REPRESENTING THROUGH PRINCIPAL COMMISSIONER CENTRAL GOODS
AND SERVICE TAX GST BHAWAN KEDAR ROAD FANCY BAZAR
GHY-01

4:THE CHIEF COMMISSIONER
CENTRAL GOODS AND SERVICE TAX GUWAHATI GST BHAWAN
KEDAR ROAD
GHY-01
ASSAM

5:THE SUPERINTENDENT OF CENTRAL GOODS AND SERVICE TAX C-
EXCISE
GUWAHATI DIVISION-II
GHY
ASSAM

6:ASSTT. COMMISSIONER OF STATE TAX
NAGAON
ZONE ASSA

Advocate for the Petitioner : MR P J DUTTA

Advocate for the Respondent : SC, GST

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

10.04.2023

Heard Shri B.P. Borah, learned counsel for the petitioner. Also heard Shri B. Choudhury, learned Standing Counsel, Finance (Taxation) Department, Government of Assam as well as Shri S.C. Keyal, learned Standing Counsel, CGST.

Considering the subject matter in dispute and also the development which had taken place in the meantime, this writ is taken up for disposal at the admission stage.

The petitioner claims to be a contractor working for various department of the Government of Assam. He is registered under the Goods and Services Tax Act, 2017, with registration No. 18AKXPC8017G1ZV on 23.03.2021. It is the case of the petitioner that he had defaulted in payment of tax for 6 months and accordingly on 16.11.2021, he was served with a Show Cause Notice as to why his GST registration should not be cancelled. However, the information of such Show Cause Notice according to the petitioner was received by him only in May, 2022 and accordingly he did not get adequate opportunity to reply to the said Show Cause Notice. On 30.11.2021, the cancellation order was issued whereafter the petitioner had approached the GST authorities for revocation of

the cancellation. It is the case of the petitioner that he had offered to clear all the pending taxes with requisite penalties. Since, no action was taken on his request, the instant writ petition has been filed.

Shri Borah, the learned counsel for the petitioner submits that the show cause notice was issued at the time of the pandemic and only because of the reason that the petitioner was not informed about it, he could not file the reply. However, the *bona fide* of the petitioner is reflected by the fact that in his representation for revocation of the cancellation order, he had made an offer to clear all the pending taxes as well as penalties, if any.

Shri B. Choudhury, learned Standing Counsel, GST, however submits that this Court may not be required to go into the merits of the case in view of a recent communication of the Central Government dated 31.03.2023.

The learned Standing Counsel, however has placed on record a very recent notification of the authorities dated 31.03.2023 wherein, cases of the present nature have been taken into consideration and time up-to 30.06.2023 has been given to persons who may apply for revocation of cancellation of the registration. He submits that the petitioner can take the aid of the said notification and submit a fresh response which would be considered in terms of the aforesaid notification.

He further submits that the State Government has subsequently issued a notification dated 04.04.2023, whereby the aforesaid Office Memorandum dated 31.03.2023 has been allotted and liberty was granted to all such class of persons to apply for revocation of the cancellation of registration.

In view of the aforesaid facts and circumstances and the submissions made by the learned Standing Counsel, the instant writ petition is disposed of

by giving liberty to the petitioner to file necessary application in terms of the aforesaid notifications dated 31.03.2023 and 04.04.2023 in the manner prescribed therein and within the period of 30.06.2023. Since the notification itself provides for application for revocation of the license, it is expected that such application would be considered in a fair and transparent manner by giving opportunity of hearing to the petitioner.

Writ petition accordingly stands disposed of.

JUDGE

Comparing Assistant