

GAHC010260072022



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

Case No. : WP(C)/755/2023

M/S PADMA LAXMI BRICK AND ANR.
A PROP FIRM HAVING PLACE OF BUSINESS AT PALASHBARI, MIRZA,
KAMRUP METRO, ASSAM, PIN- 781132

2: SARAT DAS
S/O- SRI GAJIN DAS AND PROP OF THE PETITIONER NO.

VERSUS

THE STATE OF ASSAM AND 3 ORS
THROUGH THE COMMISSIONER AND SECRETARY TO THE GOVT OF
ASSAM, MIN OF FINANCE AND TAXATION, KAR BHAWAN, GANESHGURI,
GHY, ASSAM

2:THE PRINCIPAL COMMISSIONER
ASSAM
KAR BHAWAN
GS ROAD
DISPUR
GHY- 06

3:THE DEPUTY COMMISSIONER OF STATE TAXES
GUWAHATI- UNIT B-10
ASSAM

4:THE JOINT COMMISSIONER OF STATE TAXES (APPEALS)
GUWAHATI
ASSA

Advocate for the Petitioner : MS. M L GOPE

Advocate for the Respondent : SC, FINANCE AND TAXATION

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

03.04.2023

Heard Ms. N Hawelia, learned counsel for the petitioners. Also heard Shri B Choudhury, learned Standing Counsel, Finance and Taxation Department, Government of Assam.

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

3. The petitioner no. 1 is a Proprietorship Firm in the name and style of M/S Padma Laxmi Brick and the petitioner no. 2 is the proprietor of petitioner no. 1. Petitioner no. 2 was served with a show cause notice on certain grounds as to why the registration certificate under the State GST should not be cancelled.

4. It is the case of the petitioners that due to various personal reasons and improper service of the show cause notice, the petitioners could not respond to the same, as a result of which, the impugned order has been issued on 02.04.2022 cancelling the GST registration of the petitioners. The petitioners were also unsuccessful in preferring the appeal before the Appellate Authority which had dismissed the appeal on the ground of limitation. The petitioners have thereafter approached this Court for a direction for reconsideration of the matter by taking on board the response filed by the petitioners against the impugned order dated 02.04.2021.

4. Ms. Hawelia, learned counsel for the petitioners submits that the show cause

notice could not be responded because of reasons beyond the control of the petitioners. She submits that the petitioners are, however ready and willing to submit the reply to the show cause notice which may be considered in accordance with law.

5. Shri Choudhury, learned Standing Counsel submits that the allegations of improper service are incorrect as the show cause notice was uploaded in the portal itself and it is because of the sheer negligence of the petitioners that the response was not filed. He further submits that no fault can be attributed to the Appellate Authority as the appeal was barred by time. 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 petitioners can take the aid of the said notification and submit a fresh response which would be considered in terms of the aforesaid notification.

6. At this stage, Ms. Hawelia, learned counsel for the petitioners submits that the notification, in question is by the Central Government and she apprehends whether the same would be applicable to the State Government.

7. Shri Choudhury, learned Standing Counsel submits that there is instruction that the aforesaid notification has been adopted by the State Government and would apply in its full force.

8. 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 petitioners to file necessary application in terms of the aforesaid notification dated 31.03.2023 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 petitioners.

9. A copy of the notification dated 31.03.2023 is made a part of the record.

JUDGE

Comparing Assistant