

GAHC010274242023



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

Case No. : WP(C)/7018/2023

SMTI. REKHAMONI GOSWAMI
WIFE OF SRI HRIDI RATAN GOSWAMI,
RESIDENT OF NAZIRA TOWN,
P.O. AND P.S. NAZIRA,
DISTRICT- SIVASAGAR, ASSAM

VERSUS

UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
DEPARTMENT OF FINANCE.

2:THE PRINCIPAL COMMISSIONER OF CENTRAL GOODS AND SERVICE
TAX
GST BHAWAN
KEDAR ROAD
GUWAHATI -781001
ASSAM.

3:THE ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
DIBRUGARH DIVISION
DIBRUGARH

4:THE SUPERINTENDENT
CENTRAL GOODS AND SERVICE TAX
SIVASAGAR-4
SIVASAGAR ZONE
DISTRICT -SIVASAGAR ASSAM

Advocate for the Petitioner : MR. A K GUPTA

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

**BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

ORDER

08.12.2023

Heard Mr. R.S. Mishra, learned counsel for the petitioner; Ms. M. Konyak, learned counsel representing Mr. S.S. Roy, learned Central Government Counsel [CGC] for the respondent no. 1; and Mr. S.C. Keyal, learned Standing Counsel, GST for the respondent nos. 2, 3 & 4.

2. It is the case of the petitioner that she is the sole proprietor of a firm named M/s New India Electricals and she got herself registered as a dealer under the Central Goods and Services Tax Act, 2017. When the petitioner applied for registration, the petitioner was issued a registration certificate in Form GST REG-06 with Registration no. 18ACPPG9341R2ZN and GSTIN no. 18ACPPG9341R2ZN dated 18.05.2018.

2.1. The petitioner was issued a show cause notice on 04.01.2021 asking her to show cause as to why the registration certificate issued under the Central Goods and Services Tax [CGST] Act, 2017 in her favour should not be cancelled due to non-furnishing of returns for a period of 6 [six] months. The petitioner was, thereby, directed to furnish a reply within a period of 7 [seven] days from the date of service of the said show cause notice. The petitioner was also asked to appear in person before the authority issuing the show cause notice on 04.01.2021.

2.2. It is the plea of the petitioner that the petitioner was not convergent with the on-line procedure and she did not visit the GST Portal for a number of weeks. When the show cause notice was issued and by the time the petitioner came to know about the issuance of the show cause notice, the time bar stipulated submitting a reply to the show cause notice and to attend the hearing, had long expired. The petitioner has stated that in the month of January,

2022, the petitioner updated the GST returns up-to January, 2021, as allowed by the GST Portal. Thereafter, the petitioner tried to file the necessary application seeking revocation of the GST registration certificate but the same could not be filed as the time limit prescribed for filing any application for revocation of the GST registration certificate had elapsed and in the GST Portal, a message was displayed to the effect that the timeline of 270 days from the date of cancellation order provided to taxpayer to file application for revocation of cancellation had expired.

3. Mr. Mishra, learned counsel for the petitioner has submitted that due to cancellation of the GST registration certificate, the petitioner's business activities have been seriously jeopardized and unless the GST registration certificate is restored, the petitioner would be visited with civil consequences. Mr. Mishra has also placed copies of orders, dated 24.03.2023 & dated 11.10.2023, passed by co-ordinate benches of this Court in the writ petitions, W.P.[C] no. 887/2023 & W.P.[C] no. 5752/2023 respectively, to contend that in similar situations, this Court had allowed the petitioners therein, whose GST registration certificates were also cancelled, to approach the respondent authorities seeking restoration of GST registration certificates with the further observations that if such applications were made, the respondent GST authorities would consider the revocation of the cancellation of the GST registration certificates. Mr. Mishra has submitted that the petitioner is ready and willing to furnish all the pending returns and to make full payment of the tax dues along with applicable interest and late fee, etc.

4. Mr. Keyal, learned Standing Counsel, GST has not disputed about the orders, referred to by the learned counsel for the petitioner, while submitting that the respondent GST authorities would consider revocation of cancellation of the GST registration certificate of the petitioner if the petitioner submits such an application, provided the petitioner is ready and willing to furnish all the pending returns and to make full payment of the tax dues along with applicable interest and late fee, etc., as prescribed under the CGST Act, 2017 and the CGST Rules, 2017.

5. Having regard to the directions made in the orders, dated 24.03.2023 & dated

11.10.2023 passed by the co-ordinate benches of this Court in W.P.[C] no. 887/2023 & W.P. [C] no. 5752/2023 and considering the fact that the petitioner is ready and willing to approach the respondent GST authorities with an application seeking revocation of the GST registration certificate with the undertaking that he is ready and willing to furnish all the pending returns and to make full payment of the tax dues along with applicable interest and late fee, etc. this Court is of the considered view that the petitioner who has not been able to carry out the business activities as per law since the cancellation of the GST registration certificate, should be provided with the opportunity to approach the respondent GST authorities with an application seeking revocation of the GST registration certificate along with pending returns and to make full payment of the tax dues along with applicable interest and late fee, etc., as per the extant Act and the Rules within 15 [fifteen] days from today. With observing authority on merits, it is observed that if the petitioner submits any such application for revocation of the GST registration certificate, the respondent GST authorities shall consider the matter of revocation of the GST registration certificate of the petitioner as expeditiously as possible. With the observations made and the direction given above, the writ petition is disposed of. No cost.

JUDGE

Comparing Assistant