

GAHC010009922024



2024:GAU-AS:11537

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

Case No. : WP(C)/280/2024

PADMA THAKURIA
SILSAKOO, NORTH GUWAHATI
KAMRUP METROPOLITAN,
ASSAM- 781030.

VERSUS

THE 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:ADDITIONAL COMMISSIONER (APPEALS)
CENTRAL GOODS AND SERVICE TAX
HAVING HIS OFFICE AT GST BHAWAN KEDAR ROAD

MACHKHOWA
GUWAHATI
781001.

4:THE SUPERINTENDENT
CENTRAL GOODS AND SERVICE TAX
GUWAHATI-1- F RANGE
GUWAHATI A-4 JURISDICTIONAL OFFICE

KAMRUP(M)
ASSAM

Advocate for the petitioner(s): Mr. S Sarma

Advocate for the respondent(s): Mr. SC Keyal

Standing Counsel, CGST

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

ORDER

20.11.2024

Heard Mr. S Sarma, the learned counsel appearing on behalf of the petitioner. Mr. SC Keyal, the learned counsel appears on behalf of the respondents.

2. The instant writ petition is filed challenging the order bearing Reference No.ZA1804220044680 dated 06.04.2022 passed by the Respondent No.4 cancelling the GST Registration of the Petitioner.

3. The facts as could be discerned from a perusal of the writ petition are that the Petitioner herein was granted a registration under the Central Goods and Services Tax Act, 2017 and was issued a certificate on 18.05.2018. It appears that the Petitioner could not file his return as mandated under law. A Show Cause notice was issued on 02.02.2022 by the competent authority asking the Petitioner to Show Cause as to why his registration should not be cancelled for

not filing the returns under Section 39 of the Central Goods and Services Tax Act, 2017. In the said Show Cause notice, it was also mentioned that the Registration of the Petitioner was suspended w.e.f. 02.02.2022.

4. It is stated that the petitioner duly submitted his reply on 05.03.2022. But without considering the reply submitted by the petitioner, the respondent No.4 cancelled the registration without assigning any reason on 06.04.2022. It is also seen from the records that the petitioner claims that he had filed his returns thereafter in terms with Section 39 of the CGST Act, 2017. Thereupon, the instant writ petition has been filed by the petitioner challenging the order of cancellation dated 06.04.2022.

5. I have heard the learned counsels appearing on behalf of the parties and also perused the materials on record.

6. A perusal of the impugned order dated 06.04.2022 would show that the said order is passed by a quasi-judicial authority. The effect of the said order would be that in absence of a registration, the petitioner cannot carry out his business. Therefore, the effect of the said impugned order would entail civil consequences.

7. In the backdrop of the above, if this Court peruses the order, it is shocking that the respondent No.4 had cancelled the registration without assigning any reason. This clearly shows a total non-application of mind. Accordingly, this Court therefore sets aside the said impugned order dated 06.04.2022, thereby restoring the status back to the date on which the Show Cause notice dated 02.02.2022 was issued.

8. The respondent No.4 shall duly consider and dispose of the reply submitted by the petitioner on 05.03.2022 and pass a reasoned order thereon in

accordance with law. The said exercise be done within a period of 10 (ten) days from the date of receipt of a certified copy of this order.

9. Accordingly, the instant writ petition stands disposed of in terms with the observations and directions made hereinabove.

JUDGE

Comparing Assistant