

GAHC010102912024



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

**Case No. : WP(C)/2748/2024**

M/S SARVESHWARI INDUSTRIES  
A PROPRIETORSHIP CONCERN HAVING ITS REGISTERED OFFICE AT 2ND  
FLOOR, ROOM NO. 205,  
KEJRIWAL COMPLEX, S.J. ROAD, ATHGAON,  
GUWAHATI, KAMRUP(M), ASSAM, 781001.  
REPRESENTED BY ITS SOLE PROPRIETOR I.E., THE PETITIONER NO. 2.

2: KAMAL AGARWAL  
SON OF SRI MAHESH PRASAD AGARWAL

RESIDENT OF HOUSE NO. 84  
TOKOBARI ROAD

ATHGAON  
GUWAHATI  
KAMRUP(M)  
ASSAM  
781001

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM,  
FINANCE (TAXATION) DEPARTMENT,  
DISPUR, GUWAHATI-06, KAMRUP(M), ASSAM.

2:THE PRINCIPAL COMMISSIONER OF STATE TAX  
ASSAM  
KAR BHAWAN  
G.S. ROAD  
DISPUR

GUWAHATI-6

KAMRUP(M)  
ASSAM.

3:THE ASSISTANT COMMISSIONER OF STATE TAX  
KAR BHAWAN  
GUWAHATI UNIT-B

GUWAHATI-6.

4:THE COMMERCIAL TAX OFFICER  
(SUPERINTENDENT OF TAXES)

KAR BHAWAN  
GUWAHATI-B-5

Advocate for the petitioner(s) : Mr. R.S. Mishra

Advocate for the respondent(s): Mr. H. Baruah (SC, Finance and Taxation Department)

**BEFORE  
HONOURABLE MR. JUSTICE DEVASHIS BARUAH**

**ORDER**

**Date : 26.07.2024**

Heard Mr. R. S. Mishra, the learned counsel appearing on behalf of the petitioners. Mr. H. Baruah, the learned Standing Counsel appearing on behalf of the Finance and Taxation Department, Government of Assam.

2. This Court duly takes note of the fact that on the earlier occasions instruction(s) were sought for and accordingly the matter was fixed today.

3. The issue involved in the instant writ petition pertains to the cancellation of the registration of the petitioners by the Commercial Tax Officer (Superintendent Of Taxes) Guwahati-B-5) vide an impugned order dated 28.03.2024.

4. It is seen that the petitioners was issued a show cause notice on 23.06.2023. In the said show cause notice the allegation for cancellation of registration of the petitioners was put as Rule 21 (a) person does not conduct any business from the declared place of business. In pursuance to the said

show cause notice a reply was duly submitted on 04.03.2024. However, it is seen that by the impugned order dated 28.03.2024 the registration was cancelled on the ground of Section 29 (2) (c) that the person other than paying to under Section 10 filed to furnish return for the prescribed period. Taking into account that the ground on which the registration was cancelled was not a ground on which the show cause notice was issued, this Court is of the opinion as the ground for issuance of the show cause notice was on 23.06.2023 and the basis on which the registration was cancelled are separate, the impugned order dated 28.03.2024 by which the registration of the petitioners was cancelled is illegal and arbitrary and accordingly set aside and quashed.

5. This Court however makes it very clear that the setting aside of the order dated 28.03.2024 by way of the present order so passed shall not in any manner effect the right of the respondent authorities to take appropriate steps for cancellation by issuing proper show cause notice.

6. With the above direction(s) and observation(s) the instant writ petition stands disposed of.

**JUDGE**

**Comparing Assistant**