

GAHC010195752024



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

Case No. : WP(C)/4966/2024

RAKIB SARKAR
SON OF NUR MOHAMMAD SARKAR, RESIDENT OF DHUBRI, NEAR QUEEN
VICTORIA FIELD, WARD NO. 1, P.S. DHUBRI, DIST.- DHUBRI, ASSAM, MOB.
NO. 7002300524 AND PROPRIETOR, M/S AR ENTERPRISE

VERSUS

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

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

3:THE ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
DHUBRI
ASSAM
783301

4:THE SUPERINTENDENT
CENTRAL GOODS AND SERVICES TAX
DHUBRI RANGE
DHUBRI
PIN- 78330

Advocate for the petitioner(s): Mr. M Dutta

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

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

ORDER

25.09.2024

Heard Mr. M Dutta, the learned counsel appearing on behalf of the petitioners. Mr. SC Keyal, the learned counsel appears on behalf of the respondents.

2. The instant writ petition is filed challenging the order bearing No.ZA1809230088169 dated 12.09.2023 passed by the Respondent No.3 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 09.07.2019. However, the Petitioner could not file his return as mandated under law. A Show Cause notice was issued on 08.08.2023 by the Respondent No.3 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. 08.08.2023. It is not known as to whether any Show Cause reply was filed by the petitioner.

4. Be that as it may, on 12.09.2023, the Respondent No.3 cancelled the registration without assigning any reason. 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 12.09.2023.

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 12.09.2023 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.3 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 12.09.2023 thereby restoring the status back to the date on which the Show Cause notice dated 08.08.2023 was issued.

8. The petitioner is given the liberty to file reply to the said show cause notice. The said exercise be done within a period of 10 (ten) days from today. The Respondent No.3 shall take due steps in accordance with law.

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

JUDGE

Comparing Assistant