

08.12.2023
Item No.6
gd/ssd

MAT/1933/2023
IA NO: CAN/1/2023
ASHOK KUMAR JHA
VS
UNION OF INDIA AND ORS.

Ms. Sweta Mukherjee
..for the Appellant.

Mr. K.K. Maiti,
Mr. Tapan Bhanja
..for the Respondent/CGST Authority.

1. This intra court appeal by the petitioner is directed against the order dated 20.9.2023 in WPA 21618 of 2023.

2. By the said writ petition the appellant had challenged the order dated 17th January, 2023 cancelling the appellant's registration under the provisions of the CGST Act.

3. Earlier the petitioner had approached this court and filed a writ petition in WPA 13767 of 2023 contending that there was no order of cancellation of registration furnished to the appellant and such an order was not uploaded by the department and the appellant was not aware of the status of his registration.

4. The learned writ court by order dated 17.7.2023 directed the department to hand over a copy of the order in original cancelling the appellant's registration and if it is furnished, the appellant will be

entitled to file an application for revocation of the same on the basis of the said hard copy which was required to be supplied within 15 days.

5. According to the department, on 26th January, 2023 an order was passed.

6. It is rather surprising to note that such an order came to be passed by the authority on National Holiday.

7. Be that as it may, the authority passed a fresh order on 17.7.2023 cancelling the registration.

8. However, on perusal of the order, we find that no reasons have been set out for such cancellation. The appellant filed an application for revocation of the said order and the stand taken by the appellant was that upto a particular date he carried on business in Strand Road and thereafter he entered into leave and licence agreement with the owner of premises at Jogendra Kaviraj Row, Kolkata-700 007 on 1st February, 2023 and thereafter changed the place of business. The authority has referred to field visit report dated 11th November, 2022 which records that upto 09.2.2022 the appellant was carrying on business in the address at Strand Road and thereafter it is not clear as to where the appellant had shifted the place of business. The appellant's consistent case was that in February, 2022 he entered into a fresh leave and licence agreement with one Ramkant Sharma and

shifted his place of business to the premises in Jogendra Kaviraj Row, Kolkata-700 007 and this leave and licence agreement was subsequently renewed on 2nd January, 2023.

9. In the facts and circumstances of the case, it has to be seen as to whether the cancellation of registration of the appellant was justified.

10. Thereafter the appellant had filed another writ petition in WPA 21618 of 2023 challenging the cancellation of registration by order dated 17th July, 2023.

11. The said writ petition was disposed of on 29.9.2023 by directing the authorities to pass a fresh reasoned and speaking order.

12. Now the issue would be as to whether the cancellation of registration of the appellant was justified. Our task has become easier because the authority concerned after the order dated 29.9.2023 in WPA 21618 of 2023 has passed a fresh order in original dated 05.10.2023 clearly holding that the appellant's case is a fit case for revocation of the cancelled registration and that the cancellation has to be revoked by the RO and it will be made available in the AIO system.

13. After the order dated 05.10.2023 the appellant has submitted a representation on 18.10.2023 to the Assistant Commissioner, CGST &

CX, Range-I, Shyambazar Division, Kolkata North Commissionerate requesting for restoration of the registration, which representation appears to have not been considered till date.

14. In the light of the above facts and circumstances of the case, we direct the Assistant Commissioner, CGST & CX, Range-I, Shyambazar Division, Kolkata North Commissionerate to restore the appellant's registration not later than 15th December, 2023 and make the necessary data available in the official portal so as to enable the appellant to carry on business.

15. Accordingly, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)