05-04-2023
Court No.2
Sh/52.

In The High Court At Calcutta
Jalpaiguri Circuit Bench

W.PA. 505 of 2023

Shib Shakti Stone Industries
-Vs-
Joint Commissioner

Mr. Matan Chakraborty.
..For the Petitioner.
Mr. Hirak Barman,
Mr. Momenur Rahaman.
.. For the State.

Affidavit-of-service filed in Court today be taken on record.

The petitioner had challenged a show-cause notice dated December 21, 2021 issued by the **Deputy Commissioner Coochbehar, Jalpaiguri, (Annexure P-5 at page 34 to the writ petition)** under **Rule 22(1) and 21A (2A) of the West Bengal Goods Services Tax Rules 2017** (in short, 2017 Rule).

The petitioner also challenged an order for cancellation of registration under the West Bengal Goods and Service Act, 2017, , annexure P-4 at page 33 to the writ petition. The challenge against cancellation of registration shall lie before the Statutory Tribunal by way of an appeal under Section 107 of the said Act.

Mr. Hirak Barman, learned counsel appeared for the Revenue submitted that no appeal has been filed challenging the said decision for cancellation of registration. No reply was also submitted against the said impugned show-cause notice dated December 21, 2021.

Considering the submissions made on behalf of the parties and considering the material on record, this Court is of the view that, suspension of registration of a dealer may be a counter productive act contrary to the interest of revenue. In the event of cancellation of registration of a dealer, such dealer cannot carry out business as no invoice can be raised by such dealer. If the dealer cannot carry out its business authmatically the question of any tax component payable to the revenue would not arise and ultimately such an act would have an negative impact on the recovery of revenue. The revenue thus should proceed in a pragmatic manner so that the revenue earning of the State exchequer would not suffer.

In the event a dealer acts in such manner amounting to evading the tax then such a dealer is required to be proceeded with strictly in accordance with law.

For the foregoing reasons and discussions, the petitioner shall be at liberty to file its reply to the said show cause notice for cancellation of registration **dated December 21, 2021 (annexure P-5 at page 34 to the writ petition),** positively within a period of 10 days from date. In the event such rply is submitted against the said show cause notice the jurisdictional authority shall decide the issue after affording an opportunity of hearing to the petitioner and they shall pass a reasoned order on the issue. The jurisdictional statutory authority shall carry out and complete the exercise and pass its reasoned order positively after giving at least three days prior hearing notice to the petitioner within a period of four weeks from the date of receiving the said reply from the petitioner.

The jurisdictional authority shall communicate its reasoned decision to the petitioner within a further period of one week from the date of the reasoned order to be passed.

The order for cancellation of registration dated December 21,2021 in so far as the petitioner was concerned, annexure P-4 at page 33 to the writ petition shall abide by the result of the said reasoned order to be passed by the jurisdictional authority as directed above.

It is needless to mention that, in the event the reasoned order goes in favour of the petitioner, the jurisdictional authority shall recall and withdraw/cancell the order for cancellation of registration of the petitioner.

This order shall not create any equity or right in favour of the petitioner in the event the petitioner is not entitled to receive its claim strictly in accordance with law.

It is made clear that this Court has not gone into the merits of the claim and rival claim of the parties before this Court in any manner. All points shall be kept open to the parties.

Since affidavits have not been called for, the allegations made in the writ petition are deemed to have been not admitted by the respondents.

On the above terms this writ petition, **WPA 505/2023** stands disposed of without any order as to costs.

(ANIRUDDHA ROY, J.)