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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 12100 of 2024

Sourav Kumar Maity
Versus
The State of West Bengal & Ors.

Ms. Arundhuti Barai … For the petitioner.

Mr. Anirban Ray
Mr. T. M .Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
… For Union of India.

1. The present writ petition has been filed inter alia praying for a direction upon the respondents to in effect restore the petitioner's registration under the Central Goods and Services Tax Act, 2017/West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act).

2. It is the petitioner's case that on or about 29th March, 2022, the petitioner was served with a show cause notice for cancellation of registration of the petitioner. Since the petitioner could not respond to the said show cause, the order of cancellation dated 29th March, 2022 had been passed. It is submitted that although, the petitioner had preferred an appeal, the appellate authority without considering the merits was pleased to dismiss the

appeal by an order dated 9th November, 2023 on the ground of limitation.

3. Ms. Barai, learned advocate representing the petitioner submits that the petitioner was and is all along ready and willing to comply with the provisions of said Act by filing returns. Unfortunately, the said fact could not be brought to the notice of the respondents as no reply to the show cause was filed. By placing reliance on a judgment delivered by the Hon'ble Division Division Bench of this Court in the case of ***Subhankar Golder v. Assistant Commissioner of State Tax, Serampore Charge*, (MAT 639 of 2024**) it is submitted that in similar circumstances the order of cancellation had been set aside subject to the conditions that the petitioner files returns for the entire period of default, pays requisite amount of tax, interest, fine and penalty. She submits that this court may be pleased to set aside the orders dated 29th March, 2022 and 9th November, 2023 and allow the petitioner to file his returns

4. Mr. Siddiqui, learned advocate representing the respondents on the other hand submits that the petitioner has not complied the statutory provision and it is for such reason the registration of the petitioner under the said Act was cancelled.

5. According to the respondent authorities the petitioner

was given opportunity to show cause. Since, no reply to the show cause was given by the petitioner, the authorities had cancelled the registration. There is no irregularity on the part of the authorities in cancelling the registration.

6. Heard the learned advocates appearing for the respective parties and considered the materials on record.

7. Admittedly, I find that the registration of the petitioner had been cancelled on the ground of non-filing of returns. It is not the case of the respondents that the petitioner had been adopting dubious process to evade tax. Taking note of the fact that the suspension/revocation of license would be counterproductive and works against the interest of the revenue since, the petitioner in such a case would not able to carry on his business in the sense that no invoice can be raised by the petitioner and ultimately would impact recovery of tax, I am of the view that the respondents should take a pragmatic view in the matter and permit the petitioner to carry on his business.

8. I find from the submissions made by the respondents that unless, the petitioner files his returns, the respondents cannot determine the final liability.

9. Having regard to the aforesaid and taking note of the direction issued by the Hon'ble Division Bench of this Court in the case of ***Subhankar Golder*** (supra), I propose to set aside the order dated 29th March 2022 cancelling the registration of the petitioner subject to the conditions that

the petitioner files his returns for the entire period of default and pays requisite amount of tax and interest and fine and penalty. As a sequel thereto the order dated 6th June, 2022 passed by the proper officer and the order dated 9th November, 2023 passed by the appellate authority under Section 107 of the said Act shall also set aside

10. It is made clear that if the petitioner complies with the directions / conditions noted above, within 4 weeks from the date of receipt of the server copy of this order, the petitioner's registration under the said Act shall be restored by the Jurisdictional Officer. However, if the petitioner fails to comply with the directions as aforesaid, the benefit of this order will not enure to the petitioner and the writ petition would stand automatically dismissed.

11. For the purpose of compliance of the above directions, the respondents are directed to open the portal within two weeks from date, so that the petitioner can file his returns, pays requisite amount of tax and interest and fine and penalty.

12. With the above direction and observations, the writ petition is disposed of without any order as to costs.

13. All parties to act on the basis of the server copy of this order duly downloaded from this Hon'ble Court's official website.

(Raja Basu Chowdhury, J.)