Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Raja Basu Chowdhury

WPA 13179 of 2024

Abdul Nayim Chowdhury
Versus
The Joint Commissioner of State Tax,
Barasat Charge & Ors.

For the petitioner	:	Mr. Tapojit Dey Ms. Ishita Ghosh
For the State	:	Mr. Anirban Ray Mr. T. M. Siddiqui Mr. T. Chakraborty Mr. S. Sanyal
Heard on	:	9th July, 2024
Judgment on	:	**9th July, 2024**

Raja Basu Chowdhury, J:

1. Affidavit of service filed in Court today is taken on record.

2. The present writ petition has been filed, inter alia, challenging the order of cancellation of registration of the petitioner passed under the Central/West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the "said Act").

3. Records reveal that pursuant to the show cause issued on 6th January, 2023, calling upon the petitioner to show cause as to

why the petitioner's registration shall not be cancelled for having not filed returns for a continuous period of six months, by an order dated 19th January, 2023, the petitioner's registration under the said Act was cancelled.

4. Mr. Dey, learned advocate representing the petitioner submits that the petitioner was all along and is interested to comply with the provisions of the said Act. He submits that by reasons of unforeseen circumstances, the petitioner could not apply for revocation of the order of cancellation. According to the petitioner, the petitioner did not have the knowledge of the show cause or the order of cancellation. He submits that the petitioner should be afforded with an opportunity to file his returns by restoring his registration and the petitioner undertakes to make payment of all arrear tax, interest, penalty and fine as may be found due.

5. Mr. Siddiqui, learned advocate enters appearance on behalf of the State-respondents

6. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, I am of the view that having regard to the case made out by the petitioner that the petitioner was prevented by sufficient cause from firstly responding to the show cause and secondly from filing of an application for revocation of the order of cancellation of registration, an opportunity should be granted to the petitioner,

who is only a small businessman, to continue with his business and profession, especially when it is not the case of the respondents that the petitioner had been adapting 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.

7. 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 v. Assistant Commissioner of State Tax, Serampore Charge & Ors***. (**MAT 639 of 2024**) on 9th April, 2024, I propose to set aside the order dated 19th January, 2023, cancelling the registration of the petitioner under the said Act, subject to the condition that the petitioner files his returns for the entire period of default and pays requisite amount of tax, interest, fine and penalty, if not already paid.

8. 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.

9. For the purpose of compliance of the above directions, the respondents are directed to activate the portal within one week from the date of communication of this order, so that the petitioner can file his returns, pays requisite amount of tax, interest, fine and penalty, if not already paid.

10. Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

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

12. All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Raja Basu Chowdhury, J.)

sb