29.07.2024
Sl. No. 78
Court No.5
BM

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 14229 of 2024

Biswajit Basu
Vs.
The Superintendent of Central Goods and Services Tax & Central Excise, Range-I, Joka Division & Ors.

Mr. Rajarshi Chatterjee
Mr. Anil Kumar Dugar
Mrs. Suman Sahani
... for the petitioner

Mr. Tapan Bhanja
... for the respondent/CGST authority

1. The present writ petition has been filed, inter alia, challenging not only the order dated 15th January, 2020 cancelling registration of the petitioner under the provision of the WB GST/CGST, 2017, hereinafter referred to as the 'said Act' but also the appellate order dated 15th April, 2024 rejecting the appeal under Section 107 of the said Act.

2. It is the petitioner's case that the petitioner was served with a show cause notice dated 25th November, 2019, for cancellation of registration

under the provision of the said Act on the following grounds:

> "*Any tax payer other than composition tax payer has not filed returns for a continuous period of six months.*"

3. According to the petitioner since the matter was in the pre-covid period the petitioner could not appropriately respond which resulted in cancellation of registration.

4. Subsequently, although the petitioner did not apply for revocation of the order of cancellation, the petitioner had preferred an appeal under Section 107 of the said Act.

5. The Appellate Authority by an order dated 15th April, 2024 was, *inter alia*, pleased to reject the said appeal on the ground that the same was time barred in terms of provision contained in Section 107(4) of the said Act.

6. Assailing the said order the present petition was filed.

7. Mr. Chatterjee submits that he intends to carry on his business and as such if an opportunity is granted, the petitioner is ready and willing to comply with the provision of the said Act.

8. Mr. Bhanja, learned advocate enters appearance on behalf of the respondents. He submits that it is the petitioner who has failed to comply with the provision of the said Act.

9. The department has no personal enmity with the petitioner. Since, the petitioner had not complied with the provisions of the said Act, his registration had been cancelled.

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

11. 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 evaded tax or had been engaging in dubious process to evade tax. Taking note of the fact that suspension/revocation of licence would be counter productive and work against the interest of the revenue since the petitioner in such case would not be able to carry on his business in the sense that no invoice can be raised by the petitioner and ultimately would impact recovery of revenue, 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.

12. Having regard to the aforesaid and taking note of the directions issued by the Division Bench of this Hon'ble Court in the case of ***Subhankar Golder v. Assistant Commissioner of State Tax, Serampore Charge*** (MAT 639 of 2024) on 9th April, 2024, I propose to set aside the order dated 15th January, 2020 cancelling the registration of the petitioner subject to the condition that the petitioner files his returns for the entire period of default and pay requisite amount of tax, interest, fine and penalty.

13. 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.

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

15. As a sequel to the above the order dated 15th April, 2024 passed by the Appellate Authority is also set aside.

16. With the above direction and observations, the writ petition being WPA 14229 of 2024 is disposed of without any order as to costs.

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

(Raja Basu Chowdhury, J.)