12th August,
2024
(AK)
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W.P.A 15941 of 2024

Ranjan Saha
Vs.
Superintendent, Range-V, Central Goods and Service Tax & Central Excise, Ballygunge Division and others

Mr. Piyal Gupta
...for the petitioner.

Mr. Tapan Bhanja
...for the CGST Authority.

Mr. Aryak nDutt
Mr. J. Mukherjee
...for the respondent no.5.

1. The present writ petition has been filed, inter-alia, challenging not only the order dated 17th March, 2023, cancelling the petitioner's registration under the provisions of WBGST/CGST Act, 2017 (hereinafter referred to as 'the said Act') but also the order passed by the Appellate Authority dated 28th November, 2023.
2. It is the petitioner's case that the petitioner was served in the show cause notice dated 15th January, 2023 for cancellation of registration under the provisions of the said Act on the ground that the petitioner has not filed his returns for a continuous period of six months.
3. Pursuant to the aforesaid, the petitioner's representative had duly appeared before the

respondents and offered an explanation with the further request to permit the petitioner to file his up to date returns.

4. The petitioner claims notwithstanding the aforesaid the jurisdictional officer by an order dated 17th March, 2023 was, inter-alia, pleased to cancel the petitioner's registration.

5. Being aggrieved, the petitioner had preferred an appeal before the Appellate Authority. The Appellate Authority, however, by its order dated 28th November, 2023 was, inter alia, pleased to reject the said appeal.

6. Assailing the same, the present writ petition has been filed.

7. Mr. Piyal Gupta, learned Advocate appearing for the petitioner, submits that the petitioner intends to carry on his business and as such if the opportunity is granted, the petitioner who is otherwise ready and willing, shall comply with the provisions of the said Act.

8. Mr. Bhanja, learned Advocate enters appearance on behalf of the respondents. He submits that it is the petitioner has failed to comply with the provisions 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 registration 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 direction issued by the Hon'ble Division Bench of this Court in the case of ***Subhakar Golder versus Assistant Commissioner of State Tax, Serampore Charge (MAT 639 of 2024)*** on 9th April 2024, where it is in similar circumstances, a

similar order of cancellation of registration has been set aside, subject to the condition that the petitioner files returns for the entire period of default, pays requisite amount of tax and interest and fine and penalty, I propose to set aside the order dated 17th March, 2023 cancelling the registration of the petitioner and as a sequel thereto, also the order dated 28th November, 2023 passed by the Appellate Authority.

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 and the orders dated 17th March, 2023 and 28th November, 2023 shall stand set aside. 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. With the above direction and observations, the writ petition is disposed of without any order as to costs.

16. 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.)