22nd August, 2024
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**W.P.A 16801 of 2024**

Tamas Dutta
Vs.
The State of West Bengal and others

Mr. Somik Guha
Mr. Siddhartha Dasgupta
...for the petitioner.
Mr. Anirban Ray
Md. T.M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...for the State.

1. Affidavit-of-service filed in court today be kept on record.

2. Challenging, inter-alia, an order dated 8th July, 2022 cancelling the registration of the petitioner under the provisions of the WBGST/CGST Act, 2017 (hereinafter referred to as "the said Act") the present writ petition has been filed.

3. It is the petitioner's case that on 21st June, 2022, the petitioner was served with a show-cause notice as to why the petitioner's registration under the said Act shall not be cancelled on account of the petitioner not filing returns for a continuous period of six months.

4. Although the petitioner had responded to the show-cause, the proper officer was, *inter-alia*, pleased to cancel the registration vide his order dated 8th July, 2022.

5. Subsequently the petitioner had filed a belated appeal. Such appeal was barred by limitation. The Appellate Authority by an order dated 7th June, 2024 was, *inter alia*, pleased to reject the said appeal as being barred by limitation.
6. Mr. Guha, learned Advocate appearing on behalf of the petitioner, submit that the petitioner has all *bona fide* intentions to carry on his business.
7. Unfortunately in the instant case since, the returns could not be filed in time, the petitioner's registration under the said Act had been cancelled.
8. He submits that the petitioner was and is at all material times ready and willing to comply with the provisions of the said Act and the petitioner undertakes to make payment of tax, interest, penalty, fine as may be found due.
9. He prays that in the given facts the petitioner's registration under the said Act may be restored.
10. Mr. Siddiqui, learned Government Pleader enters appearance on behalf of the respondents. He submits that admittedly in this case the petitioner did not file the returns. Consequentially after given an opportunity to show cause since, the explanation given by the petitioner was not found satisfactory, the registration of the petitioner under the said Act was cancelled. The order passed by the Appellate Authority also cannot be called in

question since admittedly, the appeal was barred by limitation and the explanation given by the petitioner was also not acceptable.

11. Heard the learned Advocates appearing for the respective parties and considered the materials on record. In this case, record would reveal that the petitioner's registration under the said Act was cancelled on the ground that the petitioner had failed to file his returns for a continuous period of six months.

12. Although, an appeal was filed by the petitioner, such appeal was dismissed on the ground of limitation without there being any adjudication on merits.

13. It may be noted that the petitioner is only a small businessman and claims that he had suffered reverses during the Pandemic.

14. I find that 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.

15. In the instant case, I find that the petitioner through his Advocate has undertaken to comply with the provisions of the said Act and has agreed to make payment of tax, interest, fine and penalty as may be found due.

16. Having regard to the above and taking note of the directions 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 8th July, 2022, 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.

17. It is made clear that if the petitioner complies with the directions/conditions noted above, within four 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/respondent no.4. 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.

18. 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.

19. As a sequel thereto, the order of cancellation dated $8^{th}$ July, 2022 and the order dated $7^{th}$ June, 2024 passed by the Appellate Authority also stands set aside.

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

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

22. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of necessary formalities.

**(Raja Basu Chowdhury, J.)**