HIGH COURT AT CALCUTTA
In The Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction

Present:

The Hon'ble Justice Jay Sengupta

WPA 1258 of 2024
Rajiv Tamang @ Rajeev Tamang
Versus
The Superintendent, CGST & CX, Mirik Range, Darjeeling Division & Ors.

For the petitioner	:	Mr. Dhiraj Lakhotia Mr. Apurba Saha Ms. Radhika Agarwal Ms. Meghna Joshi
For the respondent no.1 to 3	:	Mr. Ratan Banik Mr. Bishwaraj Agarwal
Heard on	:	24.07.2024
Judgment on	:	24.07.2024

Jay Sengupta, J:

This is an application praying for direction upon the respondent authorities to rescind and cancel the order of cancellation of registration of the petitioner dated 08.03.2021 and the order rejecting the appeal on 06.05.2024 on the ground of delay.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a proprietorship concern, which was registered with the Central Goods and Service Tax, 2007 having registration number 19ACNPT 6109Q27K. During the COVID period, the petitioner concerned did not file return for more than six months. That is why its registration with the GST authorities was cancelled on 08.03.2021. As the COVID period intervened and due to certain other issues, the petitioner was unable to file an appeal in time. Belatedly, an appeal was filed. The same was rejected on 06.05.2024 on the ground of delay. On this, reliance is placed on orders passed by the Division Bench of this Court on 09.04.2024 in MAT 639 of 2024 and by a Single Bench of this Court on 14.05.2024 in WPA 10191 of 2024.

Learned counsel appearing on behalf of the GST authorities submits that the petitioner had ample opportunity to file an appeal because there were number of schemes floated by the concerned authorities. The delay has also not been properly explained.

It does not appear that the petitioner's registration has been cancelled on the ground of any attempt to evade tax or the like. The cancellation of the registration would only occasion the petitioner bringing up another entity to do the same business. This will be an unnecessary exercise.

Moreover, in the decisions cited on behalf of the petitioner, it appears that the coordinate Bench and the Division Bench condoned the delay in preferring such appeal and this in spite of the delay being quite enormous. I do not find any special reason to take a different view.

What is important is that the interest of the Revenue should be protected and the petitioner is able to pay taxes for the business he runs.

In view of the above and for the balance of convenience, I quash and set aside the order of cancellation and registration passed on 08.03.2021 and the subsequent order passed in appeal on 6.5.2024.

The respondent authorities shall allow the petitioner to file a return within 15 days from this date by keeping open the web portal for such purpose. The petitioner shall also furnish an undertaking that to the respondent no.1 in physical form that he shall file returns regularly as required under the Act.

With these observations, the writ petition is disposed of.

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)

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