03.01.2024
Item No.21
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WPA/2960/2023
SUDIP SARKAR
VS
DEPUTY COMMISSIONER OF COMMERCIAL TAXES, JALPAIGURI CIRCLE & ORS.

Mr. Jagriti Mishra,
Ms. Ananya Bhattacharya,
Ms. Mrinmayee Das
..for the Petitioner.

Mr. Subir Kumar Saha,
Mr. Dilip Kumar Agarwal
..for the State.

The petitioner has challenged the order of cancellation of registration dated 3rd February, 2022 passed by the Assistant Commissioner, Commercial Taxes, Jalpaiguri Charge.

The learned advocate appearing for the petitioner, by drawing the attention of the court to the said order dated 3rd February, 2022 submits that the said order refers to a reply of the petitioner dated 9th December, 2021 whereas the fact remains that no such reply to the show cause was submitted by the petitioner. He further submits that since the order was passed during the Covid period and also that the petitioner was suffering from various ailments he could not file an effective reply to the show cause notice dated 29th November, 2021, an opportunity is be afforded to the petitioner to contest the said show cause notice by filing an effective reply to the same.

The learned advocate representing the State submits that since it is admitted by the petitioner that he has not submitted any reply to the show cause notice dated 29^{th} November, 2021, the authorities cannot be faulted for passing an order for cancellation of registration.

Upon going through the order of cancellation of registration dated 3^{rd} February, 2022, this court is of the considered view that the same is a non-speaking order. The order refers to the reply dated 9^{th} December, 2021 but the same does not reflect consideration of such reply and also as to why the reply of the petitioner was not accepted. Therefore, only for such reason, the order impugned is liable to be set aside.

However, since the learned advocate for the petitioner submits that no effective reply to the show cause notice dated 29^{th} November, 2021 could be submitted due to his health condition, this court is of the considered view that interest of justice would be subserved if the petitioner is given liberty to submit a reply to the show cause notice dated 29^{th} November, 2021 within a stipulated time limit and the authorities are directed to take a decision on the show cause notice after considering the reply which is allowed to be submitted by this order.

In view thereof, the order of cancellation of registration dated 3rd February, 2022 is set aside and quashed. Liberty is given to the petitioner to file a reply to the show cause notice dated 29th November, 2021 within a fortnight from the date of receipt of the server copy of this order. If such reply is submitted within the time limit mentioned hereinbefore, the Assistant Commissioner, Commercial Taxes, Jalpaiguri Charge shall consider the same in accordance with law upon giving an opportunity of hearing to the petitioner and/or his authorized representative and pass a reasoned order within a period of three weeks from the date of submission of such reply. The reasoned order shall be communicated to the petitioner immediately thereafter.

It is, however, made clear that the decision of the authority suspending the registration with effect from 29th November, 2021 is not interfered with by this court.

The learned advocate appearing for the petitioner submits that the petitioner is ready and willing to pay all the outstanding tax, interest and penalty and the authorities may consider such prayer compassionately.

The petitioner will be at liberty to make such prayer before the authorities at the time of hearing.

With the above observations, WPA 2960 of 2023 stands disposed of.

There shall be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)