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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 450 of 2025

Pramod Kumar Gupta
Versus
The State of West Bengal & Ors.

Mr. Arijit Chakrabarti
Mr. Prabir Bera
Mr. Deepak Sharma
Ms. Swati Singh
... For the petitioner

Mr. Anirban Ray
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Ms. Sumita Shaw
Mr. Saptak Sanyal
... For the State

1. Affidavit of service filed in Court today is taken on record.

2. Challenging the order passed by the appellate authority under Section 107 of the Central/West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the "said Act") dated 26th December, 2024, issued in Form GST APL-04, the instant writ petition has been filed.

3. The petitioner would contend that on 1st November, 2023 the petitioner was issued a show cause notice as to why the petitioner's registration under the said Act shall not be cancelled. Detailed grounds of cancellation would corroborate from the attached notice of cancellation of registration, to the show-

cause. The same is extracted hereinbelow:

> ***“****The nature of possession of the RTP’s above mentioned declared place of business is shown as “Rented” in his application for new registration.*
>
> *Where as, in course of investigation/field visit on 16-10-2023 by the officers of* ***Bally and Salkia Charge, Directorate of Commercial Taxes, Govt. of W.B****., it is revealed that :-*
>
> *1) No such address is found (122/8/9/3, J. N. Mukherjee Road, Howrah, West Bengal, 711107)*
>
> *2) According to local shop keepers, 122/8/9/3, J. N. Mukherjee Road, Howrah, West Bengal 177107 is a fictitious address.*
> 3) Local Residents of nearby area (122/8, J. N. Mukherjee Road Howrah, West Bengal, 711107 has never seen PRAMOD KUMAR GUPTA (Prop) **carrying any business under the trade name** “MITTAL ENGINEERING WORKS.**”**

4. Records reveal that the petitioner did not respond to the show cause and ultimately by an order dated 21st December, 2023, the petitioner’s registration under the said Act was cancelled. Subsequently, the petitioner in accordance with Central/West Bengal Goods and Services Tax Rules, 2017 (hereinafter referred to as the “said Rules”) had applied for revocation of the order of cancellation. Such fact would corroborate from the acknowledgement issued by the respondents in Form GST REG-02 dated 15th January, 2024. It, however, appears that on 6th February, 2024 the respondents

had issued a show cause as to why the petitioner's application for revocation of the cancellation of registration, shall not be rejected. The ground indicated in the said show cause notice are extracted hereinbelow:-

> "*Reason for revocation of cancellation- Others (Please specify) – RTP is asked to appear in person (mandatory) and if necessary also an authorized person before the undersigned at the office of The CHARGE OFFICER, STATE TAX, BALLY & SALKIA CHARGE at 12-30 P.M. on or before the due date with valid documents related to lawful occupancy of the only place of business and books of accounts thereby to offer explanation, clarification and submissions in response to such queries as may be raised*".

5. Mr. Arijit Chakrabarti, learned advocate appearing in support of the writ petition by referring to the aforesaid show cause notice dated 6th February, 2024 would submit that the grounds for cancellation of the petitioner's registration and the ground for rejection of the application for revocation of cancellation of registration are entirely different. According to him, although the petitioner had produced all relevant documents in support of his contention as regards erroneous recording of the postal address of his registered place of business, the proper officer by an order dated 20th March, 2024 had rejected the said application for revocation of the cancellation of

registration on the grounds that the petitioner could not produce the documents relating to lawful occupancy of its place of business. Although, the petitioner had preferred an appeal from the aforesaid order, the appellate authority by a cryptic order dated 26th December, 2024 without addressing the grounds raised by the petitioner in the appeal, rejected the same. He would submit that the aforesaid order passed by the appellate authority cannot be sustained. In any event, he submits since, the physical verification of the petitioner's place of business was not carried out in accordance with the Rules prescribed, the matter should be remanded back to the proper officer for a fresh adjudication, after making a fresh physical verification of the petitioner's place of business.

6. Mr. Tanoy Chakraborty, learned advocate representing the State on the other hand would submit that admittedly in this case physical verification of the petitioner's place of business was conducted in accordance with law. Having regard thereto, according to him, the original order passed by the proper officer cannot be said to be irregular.

7. Having heard the learned advocates appearing for the respective parties, I find that the original show cause notice for cancellation of registration of the petitioner was issued on the ground that the petitioner's place of

business was fictitious. Although the petitioner did not respond to the same, however, after the order of cancellation was issued, the petitioner had filed an application for revocation of the order of cancellation wherein the petitioner had clarified that the petitioner had incorrectly recorded its postal address of its place of business as 122/8/9/3 J. N. Mukherjee Road, Howrah, though the correct address would be 122/89/3 J. N. Mukherjee Road, Howrah. Once, such application for revocation was filed, the respondents had called upon the petitioner to substantiate its right of legal occupancy of its place of business. Since, according to the respondents, the petitioner could not produce any valid documents in support of his claim of lawful occupancy of its place of business, an order was passed rejecting the application for revocation. The appellate authority has, however, by the order impugned failed to take note of any of the issue raised in the appeal. The order passed by the appellate authority is cryptic, devoid of any reasons. The same, in my view, cannot be sustained and is accordingly set aside.

8. The matter is accordingly remanded back to the appellate authority for a fresh decision on merits. While deciding the matter, the appellate authority shall verify and carry out physical verification of the

petitioner's place of business, in accordance with the Rules upon giving due notice to the petitioner.

9. The appellate authority is also directed to permit the petitioner to produce all documents in support of his claim to demonstrate that it has a legal right to occupy its place of business.

10. Considering the fact that the petitioner's registration has been cancelled, I am of the view that the appellate authority should take expeditious steps to dispose of such appeal, preferably within a period of six weeks from the date of communication of this order.

11. With the above observations and directions, the writ petition is disposed of.

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

(Raja Basu Chowdhury, J.)