17. 07.05.2025
Court No.05.

(Pritam)

WPA 9482 of 2025

Samir Kumar Ghosh.

-Vs.-

The State of West Bengal & Ors.

Mr. Avi Dey,
Mr. Siddhartha Dasgupta

...for the petitioner.

Mr. Anirban Ray, Ld. G.P.,
Mr. Md. T. M. Siddiqui, Ld. A.G.P.,
Mr. Tanoy Chakraborty,
Mr. Saptak Sanyal,
Mr. Debraj Sahu

...for the State.

1. Challenging the order of cancellation of the petitioner's registration under the provisions of WBGST and CGST Act, 2017 (hereinafter referred to the "said Act") dated December 6, 2021, the instant writ petition has been filed.

2. Records would reveal that a show-cause notice was issued on November 15, 2021 on the ground that the petitioner has failed to file returns for a continuous period of six months. The petitioner would submit that by reasons of the covid pandemic, the petitioner had suffered business reverses and could not make payment of GST dues and/or file returns in time. Mr.Dey learned advocate for the petitioner would submit that the petitioner is interested to restart his business and is

ready and willing to make payment of tax, interest, penalty and fine as may be found due.

3. Heard the learned Advocates appearing on behalf of the respective parties and considered the materials on record. Admittedly, I find that the petitioner's registration under the said Act had been cancelled on the ground of non-filing of returns. 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 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 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.

4. Although it has been argued by Mr. Sanyal that there is no irregularity on the part of the respondents in cancelling the registration, however, the fact that the petitioner is now interested to comply with the provisions of the said Act, in my view, cannot be ignored.

5. Having regard to the direction issued by the Hon'ble Division Bench of this Court in the case of *Subhankar Golder v. Assitant Commissioner of State Tax, Serampore*

Charge & Ors. (MAT 639 of 2024) on 9th April, 2024, I propose to set aside the order dated December 6, 2021, 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.

6. 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.1. 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.

7. 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.

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

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

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

(Raja Basu Chowdhury, J.)