30 **29.01.2025.**
SM

WPA 29610 of 2024

Suprovat Gayen
Vs.
Superintendent of Central Tax, Range-I, Behala Division, CGST & CX, Kolkata South Commissionerate & Ors.

Mr. Debanuj Basu Thakur
… for the petitioner
Ms. Manasi Mukherjee
Mr. Bijitesh Mukherjee
… for the state

The present writ petition has been filed, inter alia, challenging the order of cancellation of registration of the petitioner dated 25th of May, 2024 passed under the Central/West Bengal Goods and Services Tax Act, 2017 (Hereinafter referred to as the “Said Act”).

It is the petitioner’s case that on 6th September, 2023, the petitioner was served with a show cause as to why the registration of the petitioner under the said Act shall not be cancelled for the petitioner having failed to file his returns for a continuous period of six months.

Mr. Basu Thakur, learned advocate appearing for the petitioner submits that the petitioner was and is all along interested to comply with the provisions of the said Act, unfortunately the aforesaid fact could not be appropriately brought to the notice of respondents.

By placing reliance on a judgment of the Hon'ble Division Bench of this Court delivered in the case of ***Subhankar Golder Versus Assistant Commissioner of State Tax, Serampore Charge (MAT 639 of 2024)*** on 9th April, 2024, it is submitted that in similar circumstances, similar order of cancellation of registration had been set aside, subject to the condition that the petitioner files returns for the entire period of default, pays requisite amount of tax, interest, fine and penalty. He submits that this Court may be pleased to set aside the order of cancellation and allow the petitioner to file his returns on the same terms.

Ms. Mukherjee, learned advocate appearing on behalf of the respondents on the other hand submits that in the instant case although a show cause notice was issued, since the petitioner did not file any proper reply, the registration was cancelled. The petitioner did neither file any revocation application nor did the petitioner file any appeal. According the respondent authorities, there is no irregularity on the part of the respondent authorities in cancelling the registration.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Admittedly, I find that the registration of the petitioner had been cancelled on the ground of non-filing of returns. It is not the case of the respondents that the petitioner had been adopting dubious process to evade tax. Taking note of the fact that the suspension/revocation of licence would be counterproductive and work 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, therefore, 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.

I find from the submissions made by the respondents that unless, the petitioner files his returns, the respondents cannot determine the final liability.

Having regard to the aforesaid and taking note of the direction issued by the Hon'ble Division

Bench of this Court in the case of ***Subhankar Golder (supra)***, I propose to set aside the order dated 25th May, 2024 cancelling the registration of the petitioner 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.

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. 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.

For the purpose of compliance of the above directions, the respondents are directed to activate the portal within one week from date, so that the petitioner can file his returns, pays requisite amount of tax, interest, fine and penalty.

With the above direction and observations, the writ petition being WPA 29610 of 2024 is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajarshi Bharadwaj, J.)