Form No. J(2)

IN THE HIGH COURT AT CALCUTTA

CIRCUIT BENCH AT JALPAIGURI

CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 1542 of 2025

Marjina Khatun C/o Anarul Islam Sarkar
-vs-
Union of India & Ors.

For the Petitioner	:	Mr. Jagriti Mishra Mr. Ananya Bhattacharya Ms. Mrinmayee Das
For the respondents	:	Mr. Dilip Kumar Agarwal : Mr. Biswaraj Agarwal

Heard on : 29.07.2025

Judgment on : 29.07.2025

SAUGATA BHATTACHARYYA, J.:

1) Affidavit of service filed on behalf of the petitioner is taken on record.

2) By presenting this writ petition, petitioner has questioned order dated 31st July, 2024 issued by the adjudicating authority under the

Central Goods and Services Tax Act, 2017 (hereinafter referred to "said Act of 2017") whereby GST registration of the petitioner was cancelled on alleged failure to submit return for a specified period of time.

3) Mr. Mishra, learned advocate representing the petitioner submits that there is an appeal provision under Section 107 of said Act of 2017 but the time to prefer appeal as prescribed under Section 107(4) has expired. Since order was passed by the adjudicating authority on 31st July, 2024, appeal was required to be filed within a period of three months failing which a grace period of thirty days has been provided under Section 107(4) which has also expired. It is submitted if today petitioner prefers appeal outcome of such appeal is perceived. Petitioner prays for setting aside of the order of the adjudicating authority dated 31st July, 2024 which would permit the petitioner to file return within the time to be stipulated by this Court subject to terms and conditions to be set fourth while disposing of this writ petition. It is also contended on behalf of the petitioner that cancellation of registration of GST certificate in effect puts the petitioner out of purview of said Act of 2017, which is not beneficial to the respondent authorities in terms of generating revenue. In this regard, reliance is placed on the judgment of the Hon'ble Madras High Court dated 31st January, 2022 passed on a batch of matters, first one being **Tvl. Suguna Cutpiece Centre Vs. The Appellate Deputy Commissioner (ST)(GST), Salem and Erode and Anr.** (**WP No. 25048 of 2021**). Reliance is also placed on the order of the Hon'ble Division Bench passed on an intra-court appeal being **MAT 639 of**

2024 (**Subhankar Golder Vs. Assistant Commissioner of State Tax, Serampore Charge & Ors.**).

4) CGST authority is represented by learned advocate who appears on virtual mode and has made submissions to defend the decision of the adjudicating authority dated 31st July, 2024.

5) This Court is required to take into consideration the nature of order passed by the adjudicating authority dated 31st July, 2024 leading to cancellation of GST registration of the petitioner which in effect will not prejudice revenue earning of the respondent authorities in the event registration certificate is revived.

6) Placing reliance on **Subhankar Golder** (supra) and **Tvl. Suguna Cutpiece Centre** (supra), Court finds that the petitioner can be given one more opportunity to take steps for filing return within the specified time.

7) Accordingly, present writ petition stands disposed of subject to following conditions and order of cancellation of registration dated 31st July, 2024 is set aside thereby granting leave to the petitioner herein to file return for the entire period of default and pay requisite amount of tax and interest and fine and penalty within a period of four weeks from date. In the event return is filed along with necessary payment as alluded above, petitioner's GST registration under the Act shall be revived.

8) If petitioner fails to submit return and make payment within the aforesaid time, benefit of this order shall not be extended to the petitioner after expiry of aforesaid time and the writ petition would stand automatically dismissed.

9) In order to grant opportunity to the petitioner to take steps in terms of aforesaid directions concerned authorities are directed to open the portal for the petitioner so that the return can be filed for the entire period of default and requisite amount of tax, interest, fine and penalty can be deposited by the petitioner.

10) All parties to act on the server copy of this order downloaded from the official website of this Hon'ble Court.

(Saugata Bhattacharyya, J.)

Court. 02
Item No.17 (D/L)
(Suvendu)