

GAHC010137272025



2025:GAU-AS:9531

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3572/2025

SMTI JINNY DAIMARY W/O SRI SUSHIL JHA, R/O DARRANGA MELA, P.O.-
DARRANGA MELA AND P.S.- DARRANGA, DIST- TAMULPUR, ASSAM

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE
GOVERNMENT OF ASSAM, DEPARTMENT OF FINANCE AND TAXATION,
DISPUR, ASSAM

2:THE PRINCIPAL COMMISSIONER STATE TAX
KAR BHAWAN G.S. ROAD DISPUR GUWAHATI-781006

3:THE ASSISTANT COMMISSIONER OF STATE TAX NALBARI-1 ASSAM

Advocate for the Petitioner : MR. A K GUPTA, MR. R K MAHANTA,MS M NIROLA,MR. R S
MISHRA

Advocate for the Respondent : SC, FINANCE AND TAXATION,

:::BEFORE:::

HON'BLE MR. JUSTICE N. UNNI KRISHNAN NAIR

Date of hearing : 24.07.2025

Date of Order : 24.07.2025

ORDER

Heard Shri R. S. Mishra, learned counsel for the petitioner and Shri B. Choudhury, learned Standing Counsel, Finance & Taxation, appearing on behalf of the respondent Nos. 1, 2 & 3.

2. It is the case of the petitioner that she has been carrying out her proprietorship business under the name & style, "M/s. J. P. Enterprise" as the sole proprietor. She is an Assessee registered under the Central Goods and Services Tax(CGST) Act, 2017/Assam Goods and Services Tax(AGST) Act, 2017, bearing registration No. 18AVDPD6524G1ZS. On the reason of non-filing of GST returns for a continuous period of 6(six) months, the petitioner, herein, was served with a Show Cause Notice, bearing reference No.ZA180423009748D, dated 12.04.1013, asking her to furnish reply to the aforesaid Notice within a period of 30(thirty) days from the date of service of the Notice and it was mentioned in the aforesaid Notice that if the petitioner fails to furnish a reply within the stipulated date, or, fails to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of the available records and on merits. Thereafter, the impugned order, dated 02.06.2023, was passed by the Assistant Commissioner of State Tax, Nalbari-1, whereby the petitioner's GST Registration has been cancelled for not furnishing returns for a continuous period of 6(six) or more months.

3. In the writ petition, the petitioner has contended that being non-conversant with the online procedure; she could not visit the GST portal and accordingly, could not submit any reply to the said Show Cause Notice, on time. It is further contended that when the petitioner came across the said Notice; the time for filing reply and attending the hearing, was already over and order had also been uploaded in the portal.

4. The petitioner has further contended that after recovering from the impact of loss suffered by her due to a fire incident occasioning in the petitioner's business premises, she updated all her pending returns, upto the month of March, 2023, as allowed by the GST portal and while updating her returns, the petitioner had also discharged all her GST dues along with her late fees and interest.

5. Thereafter, the petitioner tried to file the necessary application seeking revocation of the cancellation of her GST Registration, however, the same could not be filed as the time limit prescribed for filing of revocation application, had lapsed and a message was displayed on the screen **"*timeline of 270 days from the date of cancellation order provided to taxpayer to file application for revocation of cancellation is expired.*"**

6. Being aggrieved, the petitioner, herein, has approached this Court by filing the present writ petition.

7. Shri Mishra, learned counsel for the petitioner, has submitted that the petitioner is ready and willing to comply with all the formalities required as per the proviso to sub-rule(4) of Rule 22 of the Central Goods and Services Tax Rules, 2017.

8. As per the provisions of Section 29(2)(c) of the Central Goods and Services Tax Rules, 2017; an officer, duly empowered, may cancel the GST registration of a person from such date, including any retrospective date, as he deems fit, where any registered person, has not furnished returns for a continuous period of 6(six) months. Rule 22 of the Central Goods and Services Tax Rules, 2017, has laid down the procedure for cancellation of the registration. The said Rule, being relevant, is extracted hereinbelow:

"Rule 22: Cancellation of Registration (1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under Section 29, he shall issue a notice to such person in FORM GST REG-17, requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled.

(2) The reply to the show cause notice issued under sub-rule [1] shall be furnished in FORM REG-18 within the period specified in the said sub-rule.

(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in FORM GST REG-19, within a period of thirty days from the date of application submitted under Rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), (or under sub-rule (2A) of Rule 21A) cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under subsection (5) of Section 29.

(4) Where the reply furnished under sub-rule (2) (or in response to the notice issued under sub-rule (2A) of Rule 21A) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in FORM GST REG-20: Provided that where the person instead of replying to the notice served under sub rule (1) for contravention of the provisions contained in Clause (b) or Clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST REG-20. (5) The provisions of sub-rule (3) shall, mutatis mutandis, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself."

9. It is discernible from a reading of the proviso to sub-rule(4) of Rule 22 of the of the Central Goods and Services Tax Rules, 2017, that if a person, who has been served with a show cause notice under Section 29(2)(c) of the Central Goods and Services Tax Act, 2017, is ready and willing to furnish all the pending returns and to make full payment of the tax itself along with applicable interest and late fee, the officer, duly empowered, can drop the proceedings and pass an order in the prescribed Form i.e. Form GST REG-20.

10. The learned counsel appearing for the parties have also referred to an Order, dated 11.10.2023, passed in WP(c) No. 6366/2023[Sanjoy Nath vs. Union of India and others], and Order, dated 18.07.2025, passed in WP(c)3926/2025 [Dipjyoti Borah v. State of Assam & ors.]; wherein, the petitioners, therein, are similarly situated like the petitioner, herein.

11. Having regard to the fact that the GST Registration of the petitioner, herein, has been cancelled under Section 29(2)(c) of the Central Goods and Services Tax Act, 2017, for the reason that she did not submit returns for a period of 6(six) months, or, more, and the provisions contained in the proviso to sub-rule(4) of

Rule 22 of the of the Central Goods and Services Tax Rules, 2017, and cancellation of registration entailing serious civil consequences; this Court is of the considered view that in the event, the petitioner approaches the Officer, duly empowered, by furnishing all the pending returns and make full payment of the tax dues, along with applicable interest and late fee, the Officer so empowered, has the authority and jurisdiction to drop the proceedings and pass an appropriate order in the prescribed Form.

12. In that view of the matter; this writ petition is hereby disposed of by providing that the petitioner, herein, shall approach the concerned authority within a period of 2(two) months from today seeking restoration of her GST registration. If the petitioner submits such an application and complies with all the requirements as provided in the proviso to sub-rule(4) of Rule 22 of the of the Central Goods and Services Tax Rules, 2017; the concerned authority shall consider the application of the petitioner, herein, for restoration of her GST Registration and pass necessary orders in accordance with law.

13. The entire process be completed expeditiously and preferably within an outer limit of 60(sixty) days from the date of receipt of a certified copy of this order.

14. It is needless to say that the period as stipulated under the provisions of Section 73(10) of the Central Goods and Services Tax Act/State Goods and Services Tax Act, shall be computed from the date of this order, except, for the financial year 2024-25, which shall be as per the provisions of Section 44 of the Central Goods and Services Tax Act/State Goods and Services Tax Act. The petitioner, herein, shall also be liable to make payment of arrears i.e. tax, penalty, interest and late fees.

15. With the above directions, the instant writ petition, accordingly, stands disposed of.

JUDGE

Comparing Assistant