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

Case No. : WP(C)/4253/2025

MOKIBUR RAHMAN
SON OF LATE ABDUL MUTALIB
R/O NO. 2 DOLABARI, P.O. KALIABHOMORA, TEZPUR UNIVERSITY ROAD,
TEZPUR, DIST. SONITPUR, ASSAM, PIN-784027

VERSUS

THE UNION OF INDIA AND 3 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY
OF FINANCE, DEPARTMENT OF REVENUE,
ROOM NO. 66-A, NORTH BLOCK NEW DELHI-110001.

2:THE PRINCIPAL COMMISISONER

CENTRAL GOODS AND SERVICES TAX
GST BHAWAN
KEDAR ROAD
GUWAHATI-781001.

3:THE SUPERINTENDENT CENTRAL GOODS AND SERVICES TAX AND
CENTRAL EXCISE

GUWAHATI-D-I/TEZPUR- I RANGE.

4:THE ADDITIONAL COMMISSIONER (APPEALS)
CENTRAL GOODS AND SERVICES TAX
AND CENTRAL EXCISE
GST BHAWAN KEDAR ROAD
GUWAHATI-781001

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

Advocate for the Respondent : DY.S.G.I., SC, GST

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

01.08.2025

Heard Shri R. S. Mishra, learned counsel for the petitioner and Shri S. C. Keyal, learned Senior Standing Counsel, CGST for the respondents.

2. It is the case of the petitioner that he has been carrying out his business under the name & style, "M/s Real Enterprise". He is the sole proprietor and 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. 18APOPR2233P1Z6. Because of non-filing of GST returns for a continuous period of six months, the petitioner was served with a show cause notice bearing reference No. ZA180823007397C dated 08.08.2023 asking him to furnish reply to the aforesaid notice within a period of 30 (thirty) days from the date of service of notice and it was mentioned in the aforesaid show cause 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 14.09.2023 was passed by the Superintendent, Tezpur I Range / Guwahati-D-1, whereby the petitioner's GST registration has been cancelled without assigning any reason.

3. The petitioner contends that he was not conversant with online procedures so he engaged a Tax Consultant who guided the petitioner. Therefore, he could not submit any reply to the said show cause notice in 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 further contends that he updated all her pending returns upto the month of September, 2023 as allowed by the GST portal and while updating her returns, the petitioner has also discharged all her GST dues along with his late fees and interest.

5. Thereafter, the petitioner tried to file the necessary application seeking revocation of GST cancellation, however, the same could not be filed as the time limit prescribed for filing of revocation application was elapsed and a message was displayed in the screen "timeline of 270 days from the date of cancellation order provided to taxpayer to file application for revocation of cancellation is expired." The petitioner also filed an appeal, the same was dismissed vide order dated 24.07.2025.

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

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

8. Shri Keyal, learned Senior Standing Counsel has, on the other hand, contended that the appeal which was preferred against the impugned order has been dismissed and the said order of dismissal has not been put to challenge.

9. As per Section 29(2)(c) of the Act, 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 CGST Rules, 2017 has laid down the procedure for cancellation of the registration.

10. Rule 22 of the CGST Rules, 2017 being the bone of contention, is extracted

herein below:-

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 sub-section (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.

11. It is discernible from a reading of the proviso to sub-rule (4) of Rule 22 of the Rules of 2017 that if a person, who has been served with a show cause notice under Section 29(2)(c) of the Act, 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.

12. The learned counsel for the parties have also referred to an Order dated 11.10.2023 passed in a writ petition being WP(C) No.6366/2023 (Sanjoy Nath vs. The Union of India and others) wherein the petitioner therein was similarly situated like the present petitioner.

13. Having regard to the fact that the GST registration of the petitioner has been cancelled under Section 29(2)(c) of the Act, for the reason that the petitioner did not submit returns for a period of 6 (six) months and more and the provisions contained in the proviso to sub-rule (4) of Rule 22 of the CGST Rules, 2017 and cancellation of registration entails 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 duly empowered, may consider to drop the proceedings and pass an appropriate order in the prescribed Form.

14. In such view of the matter, this writ petition is disposed of by providing that the petitioner 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 Rule 22 (4) of the Rules, the concerned authority shall consider the application of the petitioner for restoration of her GST registration in accordance with law and shall take necessary steps for restoration of GST registration of the petitioner as expeditiously as

possible.

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

16. This Court also clarifies that the present order has been passed in the interest of justice irrespective of the fact that the order of rejection of the appeal has not been put to specific challenge.

17. The writ petition accordingly stands disposed of. No cost.

JUDGE

Comparing Assistant