GAHC010090862026

2026:GAU-AS:7087

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

Case No. : WP(C)/2598/2026

HEM CHANDRA SHARMA
SON OF LATE KOHEL KRISHNA SHARMA,RESIDENT OF HATIGARH CHARIALI, BAMUNIMAIDAN, RAILWAY COLONY ROAD, GUWAHATI, DIST. KAMRUP (M), ASSAM, PIN-781021

VERSUS

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

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

3:THE ASSISTANT COMMISSIONER OF STATE TAX
GUWAHATI-6 ASSA M

Advocate for the Petitioner : MR. R S MISHRA, MS. M DEY,MS B SARMA
Advocate for the Respondent : SC, FINANCE AND TAXATION,

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER [ORAL]

20.05.2026

The petitioner has approached this Court by the instant writ petition, preferred under Article 226 of the Constitution of India, on the premise that his GST Registration under the Central

Goods and Services Tax [CGST] Act, 2017 has been cancelled by an Order dated 10.02.2025 pursuant to issuance of a Show Cause Notice dated 05.11.2024. The assail is made *inter-alia* on the grounds that the manner in which the GST Registration has been cancelled is arbitrary and the impugned Order of cancellation has been passed without due application of mind.

2. It is the case of the petitioner that he is engaged in business of providing security service under the aegis of his proprietorship concern, 'M/s Valiant Security Service' and his principal place of business is at Hatigarh Chariali Bamunimaidam, Railway Colony Road, Guwahati, Pin – 781021, District – Kamrup [Metro], Assam. The petitioner got himself registered under the Central Goods and Services Tax [CGST] Act, 2017 ['the CGST Act', for short]/State Goods and Services Tax [SGST] Act, 2017 ['the SGST Act', for short]. It is stated that when the petitioner applied for registration, the petitioner was issued a Registration Certificate in Form GST REG-06 with Registration no. 18AURPS3283N52G w.e.f. 17.05.2018.

3. The petitioner was issued the Show Cause Notice on 05.11.2024 by the Proper Officer asking him to show cause as to why the Registration issued to him under the CGST Act should not be cancelled. The petitioner was thereby, asked to furnish a Reply within thirty days from the date of service of the Show Cause Notice. The petitioner was also directed to appear before the Proper Officer at 11-00 on 03.12.2024. It was further mentioned that if the petitioner would fail to furnish a Reply within the stipulated date or would fail to appear for personal hearing on the appointed date and time, the case would be decided ex-parte on the basis of the available records and on merits. By the Show Cause Notice, the petitioner's Registration under the CGST Act had also been suspended w.e.f. 05.11.2024.

4. Thereafter on 10.02.2025, the impugned Order came to be passed whereby the petitioner's GST Registration has been cancelled w.e.f. 10.02.2025.

5. I have heard Mr. R.S. Misra, learned counsel for the petitioner and Mr. H. Baruah,

learned counsel appearing on behalf of Mr. B. Gogoi, learned Standing Counsel, Finance & Taxation Department, Government of Assam for all the respondents.

6. Mr. Misra, learned counsel for the petitioner has submitted that in response to the Show Cause Notice, which was uploaded in the common portal, the petitioner could not submit its Reply due to reasons beyond his control as it escaped its notice. It is projected that during the relevant period, the business of the petitioner was facing rough weather and its financial situation was in downward spiral. During the said period of bad business and financial condition, statutory compliance regarding filing of return escaped his attention. It is submitted that the petitioner came to learn about the Show Cause Notice when the time for filing the Reply was already over and the impugned Order dated 10.02.2025 had already been uploaded in the common portal. The petitioner could submit upto February, 2025, as allowed by the GST Portal. Though the petitioner tried to submit an application for revocation, the GST portal did not allow submission of such application as the time-limit prescribed for filing of revocation of application was already over by then. Similarly, the petitioner could not prefer an appeal due to expiry of the statutory period of limitation. Mr. Misra has submitted that the impugned Order of cancellation of GST Registration is to be passed in Form GST REG-19 and the Proper Officer while cancelling a registered person's GST Registration, has to assign the reasons for cancellation of registration. But, the impugned Order dated 10.02.2025 is a non-speaking and cryptic one. He has further submitted that the case of the present petitioner is substantially similar to the case of the petitioner in the writ petition, W.P.[C] no. 1215/2025, which was disposed of by an Order dated 18.03.2025.

7. Mr. Barua, learned counsel representing the respondents has submitted that the default of not filing the returns for a continuous period of six months and more was clearly attributable to the petitioner and none else. He has further submitted that the petitioner did not either submit an application for revocation in time nor presented an appeal under Section 107, CGST Act in time and such facts go to demonstrate that the petitioner himself was indolent and not vigilant.

8. I have considered the submissions of the learned counsel for the parties and have also gone through the materials brought on record, apart from the relevant provisions of the CGST Act, 2017 and the CGST Rules, 2017 ['the CGST Rules', for short] on which the learned counsel for the parties have relied on.

9. Section 39[1] of the CGST Act *inter-alia* requires a registered person to furnish a return for every calendar month or part thereof, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed. Rule 61[1] of the CGST Rules has prescribed the Form and manner of furnishing of return electronically through the common portal either directly or through a notified Facilitation Centre, as specified under sub-section [1] of Section 39 of the CGST Act.

10. As per Section 29[2][c], 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 such continuous tax period as may be prescribed. As per Rule 21[h] of the CGST Rules, registration granted to a person is liable to be cancelled, if the said person being a registered person required to file returns under sub-section [1] of Section 39 of the CGST Act for each month or part thereof, has not furnished returns for a continuous period of six months.

11. Rule 22 of the CGST Rules has laid down the procedure for cancellation of the registration. For ready reference, Rule 22 of the CGST Rules is quoted 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 sub-rule [1] of 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.

12. Sub-rule [2] of Rule 21A of the CGST Rules has empowered the Proper Officer also to suspend the registration of a person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation for registration under Rule 22, where the Proper Officer has reasons to believe that the registration of the person is liable to be cancelled under Section 29 or under Rule 21. The Show Cause Notice dated 05.11.2024 mentioned about Rule 22[1] / Rule 21A.

13. Sub-rule [1] of Rule 22 of the CGST Rules has *inter-alia* prescribed that where the

Proper Officer has reasons to believe that the registration of a person is liable to be cancelled under Section 29 of the CGST Act, he is required to 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. Then, the registered person can furnish, as per sub-rule [2], his Reply to the show cause notice in FORM GST REG-18 within the period specified, that is, within seven working days.

14. Sub-rule [3] of Rule 22 has *inter-alia* prescribed that where in respect of a registered person the registration is liable to be cancelled, the Proper Officer shall issue an order in FORM GST REG-19 with a period of thirty days from the date of the Reply to the Show Cause Notice issued under sub-rule [1], cancelling the registration with effect from a date to be determined by him and notifying the taxable person to pay arrears of any tax, interest or penalty. It is implicit in sub-rule [3] that the Reply submitted by the person has to be unsatisfactory for the registration to be cancelled.

15. Sub-rule [4] of Rule 22 of the CGST Rules has stated that where the Reply furnished under sub-rule [2] is found to be satisfactory, the Proper Officer shall drop the proceedings and pass an order in FORM GST REG –20.

16. Reverting back to the Show Cause Notice dated 05.11.2024 issued in the case in hand, it is noticed that the Proper Officer mentioned that on the basis of information which had come to his notice, it appeared that the petitioner's registration was liable to be cancelled for the reasons : 'Returns furnished by you under Section 39 of the Central Goods and Services Tax Act, 2017. Failure to furnish returns for a continuous period of six months'. The month since when and the period during which the petitioner did not file the monthly returns were not mentioned in the Show Cause Notice. The petitioner was also directed to furnish a Reply to Show Cause Notice within thirty days from the date of service of the Show Cause Notice. The main object for serving a show cause notice upon a noticee is to make aware the noticee the precise case set up against him so to afford him an effective opportunity to respond to the notice. Merely stating that it has come to the notice of the Proper Officer that it appeared that the Registration is liable to be cancelled without

detailing out the alleged default committed by the noticee, falls short of the requirement of affording an effective opportunity. By the Show Cause Notice, the petitioner was also directed to appear before the Proper Officer at 11-00 on 03.12.2024. The Show Cause Notice further provided that if the petitioner as the noticee would fail to furnish a Reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case would be decided *ex-parte* on the basis of available records and on merits.

17. When the contents of the Show Cause Notice dated 05.11.2024 and the contents of the impugned Order dated 10.02.2025 are read together, it is found that by the Order dated 10.02.2025, the Proper Officer while cancelling the GST Registration of the petitioner w.e.f. 10.02.2025, has not assigned any reason. The Proper Officer in the Order dated 10.02.2025 has recorded that '*This has reference to the show cause dated 05.11.2024. Whereas, no reply to the show cause notice has been submitted; and whereas, the undersigned based on record available with this office is of the opinion that your registration is liable to be cancelled for the following reason[s] : 1. Others. Remarks : Rule 22[1] / sub-rule [2A] of Rule 21A'*.

18. It has been laid down in sub-rule [3] of Rule 22 of the CGST Rules that the Officer has to pass an Order under Section 29[2] of the CGST Act read with Rule 22[3] of the CGST Rules in FORM GST REG-19. The contents of Form GST REG-19 clearly indicate that specific reasons are to be assigned for cancellation of an assessee's GST registration.

19. Under the GST regime a registered assessee is required to pay the statutory dues under the CGST Act or the SGST Act, as the case may be, or both. These statutory dues are required to be paid by all the assessees, who are registered under the GST regime, mandatorily. Such payments of statutory dues contribute towards the State Exchequer. If an assessee like the petitioner is not included within the GST regime, then any statutory dues that may be required to be deposited by an assessee like the petitioner would not be deposited and properly accounted for and such a situation is, albeit, not in the interest of the revenue. It is pertinent to note that in the Statement Table in the Order dated 10.02.2025, no Central Tax/State Tax/Union Territory Tax/Cess is shown as due.

20. At the same time, cancellation of GST registration would entail adverse civil consequences to the person affected as due to cancellation of his/her registration under the GST regime, he/she would be outside it and it would be difficult for the person to carry on any business in a legitimate manner. It is not in doubt that the impugned Order dated 10.02.2025 whereby the petitioner's GST registration has been cancelled is an order which has the consequence of bringing adverse consequences to the petitioner.

21. When the contents of the impugned Order dated 10.02.2025 are looked at, it is found that in the impugned Order, the Proper Officer has not assigned any reason as to why the petitioner's GST Registration has been cancelled.

22. On perusal of the impugned Order, it is evidently clear that the impugned Order is not in conformity with the procedure prescribed in FORM GST REG-19. A speaking order is one which expressly states the reasons for the decision. In other words, a speaking order speaks for itself by assigning the reasons behind the conclusion. If an order is passed without giving a proper reason by the concerned authority, then the order is a non-speaking one. Non-speaking order is one which does not provide a clear reason for its decision. The fact that the petitioner-assessee did not submit any Reply to the Show Cause Notice dated 05.11.2024 or did not appear before the Proper Officer, when he was called upon to do so, does not absolve the Proper Officer from the obligation of passing a speaking order as any order which brings adverse consequence to a person cannot be a mere paper formality.

23. An adjudicating authority exercising statutory power of cancelling registration under the CGST Act must record reasons for its decision, if such obligation is not expressly or impliedly dispensed with. It is implicit in the principles of natural justice and fair play that an adjudicating authority should record reasons as it is part of fair procedure, more particularly, when the decision is likely to affect the right of the person concerned. Recording of reason is also *prima facie* suggestive of conscious application of mind on the part of the authority. The obligation to record reasons is a possible check against arbitrary action on the part of the adjudicating authority invested with the statutory power to take a decision which is

likely to affect the right of the person concerned. When the statute itself contains a prescription to record reasons in the decision, absence of reasons in the decision falls short of prescription and would be in violation of the prescription and thus, illegal. A look at FORM GST REG-19 also goes to substantiate that the Proper Officer is obligated to record his reason[s] for taking the action of cancellation of GST Registration.

24. Thus, from every standpoint, the impugned Order dated 10.02.2025 is not a speaking order. As such, the impugned Order dated 10.02.2025 is found to be one which is passed without any application of mind. For the afore-stated reasons, the impugned Order dated 10.02.2025 cannot stand the scrutiny of law and is liable to be set aside and quashed.

25. A submission has been made that the writ petition has been preferred with delay as the petitioner has filed the writ petition in May, 2026, that is, after more than one year from the order of cancellation of registration. Although the petitioner has not approached the Court immediately after the order of cancellation of registration, this Court is of the considered view that when the extent of vulnerability of the order of cancellation of registration is due to not meeting the statutory prescription of recording reasons is pitted against the delayed approach, the vulnerability of the order of cancellation of registration, due to statutory breaches, would far outweigh the delayed approach because of its likely adverse affect on a registered person like the petitioner.

26. For all the afore-mentioned reasons, the impugned Order dated 10.02.2025 is set aside and quashed. With the setting aside and quashing of the impugned Order dated 10.02.2025, the matter stands reverted back to the stage of issuance of the Show Cause Notice in FORM GST REG-17.

27. It is discernible from a reading of the proviso to sub-rule [4] of Rule 22 of the CGST Rules that if a person who has been served with a Show Cause Notice under Section 29[2][c] of the CGST Act is ready and willing to furnish all the pending returns and to make 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 the prescribed Form, that is, Form GST REG-20.

28. In the above fact situation obtaining in the case in hand, it is open for the petitioner to submit a Reply to the Show Cause Notice dated 05.11.2024 showing reason[s] as to why the GST Registration should not be cancelled in terms of sub-rule [2] of Rule 22 of the CGST Rules read with Section 29[2][c] of the CGST Act. In the alternative, the petitioner-assessee, at the time of and/or instead of replying to the Show Cause Notice served under sub-rule [1] of Rule 22 of the CGST Rules, can furnish all the pending returns and make full payment of the tax dues along with the applicable interest, late fee and penalty, if any. It is, therefore, observed that it would be open for the petitioner-assessee to avail either of the two options. This Court, for ends of justice, deems it just and proper to grant a period of one month from today to the petitioner to avail either of the two permissible options. If the petitioner wants to know his outstanding dues including the tax dues, applicable interest, late fee, penalty, etc. the Proper Officer shall furnish or shall supply such details to the petitioner if the petitioner approaches him within the said period of one month. It is further observed that depending on the option availed by the petitioner-assessee, the Proper Officer shall proceed thereafter, in accordance with the procedure prescribed in Section 29 of the CGST Act and Rule 22 of the CGST Rules to bring the process to its logical conclusion by passing appropriate order either in FORM GST REG-19 or FORM GST REG-20, as the case may be, as expeditiously as possible, but, not later than a period of one month thereafter.

29. With the observations made and the directions given above, the writ petition stands allowed to the extent indicated above. There shall, however, be no order as to cost.

JUDGE

Comparing Assistant