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2026:GAU-AS:11188

THE GAUHATI HIGH COURT

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

Case No. : WP(C)/3802/2026

RUPAK MODAK
SON OF NARAYAN MODAK AND RESIDENT OF H NO-92, OPP NEEPCO RGB ROAD, GUWAHATI, KAMRUP METROPOLITAN, ASSAM, PIN-781005 AND SOLE PROPRIETOR OF FIRM HAVING TRADE NAME ECONOMIC SOLUTION, SITUATED AT THE AFORESAID ADDRESS.

VERSUS

THE UNION OF INDIA AND OTHERS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, ROOM NO.66-A, NORTH BLOCK NEW DELHI-110 001.

2:THE PRINCIPAL COMMISSIONER OF CENTRAL GOODS AND SERVICE TA
KAR BHAWAN
GANESHGURI
DISPUR
GUWAHATI
ASSAM
781006

3:THE SUPERINTENDENT OF TAXES
IIB RANGE KAR BHAWAN
GANESHGURI
DISPUR
GUWAHATI
ASSAM
781006

Advocate for the Petitioner : MR. A CHOUDHURY, PRANJAL SARAOGI,MR. AMIT GOYAL

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

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

JUDGMENT & ORDER

Date : 28.07.2026

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 Act, 2017 ['the CGST Act', for short] has been cancelled by an Order dated 05.06.2024 pursuant to issuance of Show Cause Notice dated 29.06.2020. Assail is made to the Order of Cancellation of Registration dated 05.06.2024 inter-alia on the ground that the manner in which the GST Registration has been cancelled is arbitrary and without any application of mind.

2. It is the case of the petitioner that he has been carrying on business under the trade name of his proprietorship concern, 'Economic Solution' from its principal place of business at R.G.B. Road, Guwahati, Kamrup Metropolitan District, Pin – 781005, Assam and for that purpose, he got himself registered under the CGST Act / State Goods and Services Tax 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–6 with Registration no. 18AOKPM2873DIZS w.e.f. 18.05.2018 with 01.02.2018 as the date of liability.

3. The petitioner was issued a Show Cause Notice on 29.06.2020 by the Proper Officer [the respondent no. 3] 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 seven working days from the date of service of the Show Cause Notice. It was further mentioned that if the petitioner 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. From a perusal of the Show Cause Notice, it is noticed that the Proper Officer did not mention anything about appointed date and time in the Show Cause Notice to afford personal hearing to the petitioner.

4. After a long lapse of time from the Show Cause Notice, the impugned Order came to be passed on 05.06.2024, whereby, the petitioner's GST registration has been cancelled w.e.f. 30.06.2020.

5. I have heard Mr. A. Goyal, learned counsel for the petitioner; Mr. A.K. Duta, learned Central Government Counsel for the respondent no. 1; and Mr. K. Jain, learned counsel on behalf of Mr. S.C. Keyal, learned Senior Counsel & Special Counsel, CGST for the respondent nos. 2 & 3.

6. Mr. Goyal, learned counsel appearing for the petitioner has submitted that on receipt of the Show Cause Notice dated 29.06.2020, the petitioner instead of filing a reply to the Show Cause Notice, had chosen to meet the deficiency committed from his end in submission of the returns, which was vaguely indicated in the Show Cause Notice as a continuous period of six months. He has submitted that the petitioner filed the returns in Form GSTR-3B for the period from March, 2019 to November, 2019 on 23.09.2020. Thereafter, the petitioner submitted the Returns in Form GSTR-3B for the subsequent period up-to February, 2024. He has, thus, contended that when the impugned Order of Cancellation was passed by the Proper Officer on 05.06.2024, the cause of action which was in existence on the date of issuance of the Show Cause Notice on 29.06.2020 was no longer in existence. The Proper Officer who took near about four years to pass the impugned Order, did not take into consideration the filing of all the Returns by the petitioner in Form GSTR-3B in the interregnum and it is, thus, evident that the Order was passed without due application of mind by taking the relevant factors. Mr. Goyal has submitted that non-application of mind is also demonstrated from the fact that despite non-submission of any reply to the Show-Cause Notice by the petitioner, the Proper Officer had recorded that he, on examination of the reply dated 30.06.2020, reached a satisfaction that the petitioner's registration was liable to be cancelled.

7. Mr. Jain, 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 other. He has submitted that the petitioner did not submit the returns, after the Show Cause Notice dated 29.06.2020, within the stipulated period of time and it was only after the stipulated period the petitioner has submitted those

returns.

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 referred to during the course of their submissions.

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 [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 the registered person 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.

13. 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.

14. 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. It is implicit in sub-rule [3] and sub-rule [4] that the Reply submitted by the person has to be unsatisfactory for the registration to be cancelled to pass an order in Form GST REG-19.

15. Reverting back to the Show Cause Notice dated 29.06.2020 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 to him that the petitioner’s registration was liable to be cancelled for the reasons : ‘Any Taxpayer other than composition taxpayer has not filed 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 seven working 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 a proper and effective opportunity to respond to the notice. It

has been held in the case of **Commissioner of Central Excise vs. Brindavan Beverages [P] Ltd. and others, [2007] 5 SCC 388**, to the effect that 'the show cause notice is the foundation on which the Department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague, lacks details and/or unintelligible that is sufficient to hold that the noticee was not given proper opportunity to meet the allegations indicated in the show cause notice'. Merely stating that it has come to the notice of the Proper Officer 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 a proper and effective opportunity. 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. There was no mention in the Show Cause Notice about the appointed date and time of personal hearing.

16. When the contents of the Show Cause Notice dated 29.06.2020 and the contents of the impugned Order dated 05.06.2024 are read together, it is found that by the Order dated 05.06.2024, the Proper Officer while cancelling the GST Registration of the petitioner w.e.f. 30.06.2020, has not assigned any reason. The Proper Officer in the Order dated 05.06.2024 has recorded that '*This has reference to the show cause notice issued dated 29.06.2020. Whereas reply to the show cause notice has been submitted vide AA180620011545K dated 30.06.2020; and whereas the undersigned on examination of your reply to show cause notice and based on record available with this office is of the opinion that your registration is liable to be cancelled for following reasons[s] : Section 29[2][c]- Person, other than paying tax u/s 10, failed to furnish returns for prescribed periods.*'

17. 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 statutory FORM GST REG-19 clearly indicate that specific reasons are to be assigned for cancellation of an assessee's GST registration.

18. 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.

19. 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 05.06.2024 whereby the petitioner's GST registration has been cancelled is an order which has the consequence of bringing adverse consequences to the petitioner.

20. From the documents annexed to the writ petition and placed before the Court by the petitioner, it can be noticed that the petitioner after receipt of the Show Cause Notice dated 29.06.2020, submitted the returns in Form GSTR-3B, which were in default, for the period from March, 2019 to May, 2020 on 23.09.2020 and thereafter, for the period subsequent thereto upto February, 2024. The return for the month of February, 2024 was filed on 27.04.2024. Therefore, by the time after a long gap of about four years from 29.06.2020 when the Proper Officer took up the matter for consideration on 05.06.2024, the petitioner had submitted the returns in FORM GSTR-3B up-to February, 2024. It is of pertinence that the cause of action for issuing the Show Cause Notice on 29.06.2020 was non-filing of returns for a continuous period of six months prior to 29.06.2020. When the Proper Officer took up the matter for consideration on 05.06.2024, the cause of action which was mentioned in the Show Cause Notice dated 29.06.2020, regarding the default made by the petitioner in filing the returns for a continuous period of six months, was no longer in existence.

21. 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. If a show cause notice is

issued without giving a proper reason by the concerned authority and when from the show cause notice it cannot be made out what case the noticee has to meet, then such show cause notice falls short of the requirement as it deprives depriving the noticee from a proper and effective opportunity from making a reply giving explanation. 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 29.06.2020 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 passing a reasoned order. Since it brings adverse consequences to the registered person, it cannot be a mere paper formality and it must be a speaking order.

22. An authority exercising statutory power of cancelling registration under the CGST Act is under obligation to issue a proper show cause notice and to pass a reasoned order. Those are the requirements of the principles of natural justice and fair play. Such requirement is a possible check against arbitrary exercise of power on the part of the authority invested with the statutory power.

23. 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.

24. The proviso to sub-rule [4] of Rule 22 of the CGST Rules has 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. From the contents of the impugned Order for Cancellation of Registration dated 05.06.2024, it does not emerge that the Proper Officer had considered the relevant facts which were in existence on 05.06.2024. Thus, apart from non-application of mind, the impugned Order for Cancellation of Registration suffers from non-consideration of the facts

regarding filing of the returns by the petitioner in FORM GSTR-3B up-to February, 2024.

25. For the above reasons, the impugned Order for Cancellation of Registration dated 05.06.2024, for the afore-stated reasons, cannot stand the scrutiny of law. The same is liable to be set aside and quashed.

26. A submission has been made that the writ petition has been preferred with delay as the petitioner has filed the writ petition in July, 2026 that is, after more than two years 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 in the show cause notice and the order of cancellation of registration due to not meeting the statutory prescriptions is examined against the delayed approach, the vulnerability of the show cause notice and 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.

27. With the setting aside and quashing of the impugned Order dated 05.06.2024, the matter stands reverted back to the stage of issuance of Show Cause Notice dated 29.06.2020. After examination of the records regarding filing of the returns which were found to be in default at the time of Show Cause Notice dated 29.06.2020 in the meantime by the petitioner, the Proper Officer shall now proceed strictly in terms of Rule 22 of the CGST Rules to pass an appropriate order in accordance with law to bring the process to its logical conclusion either in FORM GST REG-9 or FORM GST REG-20, as the case may be, as expeditiously as possible, but not later than a period of 1 [one] month from today.

28. 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