

GST Registration be restored if Assessee files pending returns and pays taxes along with interest and penalty

The Hon'ble Guwahati High Court in the case of ***Sanjoy Nath v. Union of India [WP No. 6366 of 2023 dated November 29, 2023]*** disposed of the writ petition, thereby directing the Revenue Department to take necessary steps for restoring the Petitioner's GST registration if the Petitioner is willing to comply with all the requirements stated in the proviso to Rule 22(4) of the Central Goods and Services Tax Rules, 2017 ("**the CGST Rules**") which includes furnishing of pending returns and payment of taxes along with interest and penalty.

Facts:

Revenue Department ("**the Respondent**") issued Show Cause Notice dated July 8, 2022 ("**the SCN**") against Sanjoy Nath ("**the Petitioner**") a sole proprietorship firm, as to why the Petitioner GST registration should not be cancelled due to non-furnishing of returns as required under Section 39 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") for a continuous period of six months. The Respondent vide order dated August 11, 2022 ("**the Impugned Order**") cancelled Petitioner GST Registration under Section 29(2)(c) of the CGST Act read with Rule 22 of the CGST Rules due to aforesaid reason.

Aggrieved by the Impugned Order, the Petitioner filed a writ petition before the Hon'ble Guwahati High Court for restoring the Petitioner's GST registration.

Issue:

Whether GST Registration be restored if Assessee files pending returns and pays the taxes along with interest and penalty?

Held:

The Hon'ble Guwahati High Court in the case of ***WP No. 6366 of 2023*** held as under:

- Observed that, Section 39(1) of the CGST Act requires registered person to furnish return for every calendar month, electronically of inward and outward supplies of goods or services or both, ITC availed, tax payable and paid and other related particulars in the prescribed manner.
- Further Observed that, as per Section 29(2)(c) of the CGST Act, the Officer is empowered to cancel GST registration in cases where any registered person has not furnished returns for a continuous period of six months. Also, Rule 22 of the CGST Rules provides for procedure pertaining to cancellation of GST Registration.
- Noted that, as per the proviso to Rule 22(4) of the CGST Rules, the Officer is empowered to drop the proceedings and pass orders in prescribed Form i.e. Form GST Reg-01, in cases where a person who has been served the SCN under Section 29(2)(c) of the CGST Act, is ready and willing to furnish the pending returns and make full payment of tax along with applicable interest and late fees.
- Opined that, taking into consideration the aforesaid provisions, the Respondent Authority is empowered to drop the proceedings and pass order in prescribed form if the Petitioner approaches the Respondent and expresses its willingness to furnish the pending returns and make full payment of tax along with applicable interest and late fees. Thereby, the writ petition is disposed of.
- Directed that, the Petitioner shall approach the Respondent Authority and take into consideration the application filed by the Petitioner. Further, the Respondent shall take necessary steps for restoring the Petitioner's GST registration if the Petitioner is willing to comply with all the requirements stated in Rule 22(4) of the CGST Rules.

Relevant Provision:

Rule 22(4) of CGST Rules;

“Rule 22: Cancellation of Registration:-

(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 subsection (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.”

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