

## **Kerala HC: No cancellation of GST registration in absence of proper enquiry by GST Authority**

In ***FR TRADE LINKS v. THE STATE TAX OFFICER [WP(C) NO. 28917 OF 2020 dated August 05, 2021]***, FR Trade Links (“**the Petitioner**”) filed Writ Petition at the Hon’ble Kerala High Court challenging the orders cancelling his certificate of registration under the CGST/SGST Act and rejection of his application for revocation of cancellation of registration certificate.

The ground provided by the State Tax Officer (“**Respondent**”) is that the business place is situated in a building which is partially completed with structure only and no building number is affixed by the local authority whereas under Section 29(2) of the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”) and the State Goods and Services Tax Act, 2017 (“**the SGST Act**”) which provide grounds for cancellation or suspension of registration does not envisage the contingency of situation of place of business in a partially completed building having no building number affixed on it by the local authority, such is not the reason as contemplated by section 29(2) of the CGST Act, authorizing proper person to cancel the registration of a person in exercise of the powers conferred by the relevant provision of the statute. It implies that the Respondent have invoked provisions under Section 29(2) of the CGST/SGST Act, 2017 for cancellation of registration of the Petitioner. Moreover the Petitioner had produced the receipt of the building tax from the local authority to prove the authenticity of his stand, then even without considering this document the GST authority had cancelled the registration based on the report of the intelligence officer.

The Hon’ble Kerala High Court held that the State Tax Officer is the proper officer for assessment and also a competent officer to invoke provisions of Rule 25 of the CGST Rules and the SGST Rules. The State Tax Officer is also the registering authority of the Petitioner. This officer has issued a notice to cancel the registration of the Petitioner in (“**FORM GST REG 17**”), based on the report of the intelligence officer. It is clear that the State Tax Officer has himself did not conduct any enquiry as contemplated in Rule 25. He further proceeded to cancel registration, despite the fact that the Petitioner was aggrieved by the report of the intelligence officer. The proper officer, as such, ought not to have proceeded ahead with cancellation of the registration on the basis of report of the intelligence officer. The proper officer ought to have independently assessed the situation, particularly, when the Petitioner had produced the receipt of the building tax from the local authority to prove the authenticity of his stand. This seems to have not been done by the proper officer. Without considering this document, the registering GST authority had cancelled the registration. The application for revocation of cancellation of registration is also rejected by the Respondent without proper enquiry in the matter.

In the result, the writ Petition is allowed. Consequently the State Tax Officer is directed to restore the registration of the Petitioner.

### **Online GST Course by Bimal Jain**

#### **Recorded: Certified Advanced GST Course**

**Course Details:** Certificate of Participation will be Provided, Free GST Updates on E-mail, WhatsApp, Telegram for 1 Year, Background Material and PPT will be Provided on the downloadable basis, Total 21 Recorded Sessions (60 Hours), will be available for 120 hours or 60 Days whichever expires earlier.

**For Registration:-** <https://cutt.ly/hxjl5Cu>

**Recorded: GST Course on Exports, Deemed Exports, SEZ, Imports, Merchandise Exports, Inverted Duty Structure (including Refunds)**

**Course Details:** 6 Online Recorded Sessions of 2.30Hrs each with Background Material (BGM)

**For Registration:-** <https://cutt.ly/pvw7mzl>

**For more details, Call:** +91-8076563802, **E-mail:** [intern@a2ztaxcorp.com](mailto:intern@a2ztaxcorp.com), **Web:** [www.a2ztaxcorp.in](http://www.a2ztaxcorp.in)

***DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.***