

## **Non-filing of GSTR-3B over an extended period can lead to the cancellation of GST registration**

The Hon'ble Kerala High Court in *M/s Sanscorp India Pvt Ltd. v. The Assistant Commissioner, Goods and Service Tax Network, Union of India [WP(C) No.24904 of 2023 dated September 14, 2023]* held that, if an assessee fails to file the returns for a continuous period of six months, his registration is liable to be cancelled and interest will be levied for any delayed payments.

### **Facts:**

M/s Sanscorp India Pvt. Ltd. (**"the Petitioner"**) is a registered dealer under the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) and failed to upload returns in GSTR 3B for the period from April, 2022 to December, 2022.

The Revenue Department (**"the Respondent"**) issued a Show Cause Notice (**"the SCN"**) to the Petitioner to show cause as to why the GST registration should not be cancelled for the failure to file returns for a continuous period of six months.

As per Section 29 of the CGST Act, 2017 if a dealer fails to file returns continuously for a period of six months, his registration is likely to be cancelled.

The Adjudicating Authority vide Order dated March 04, 2023 (**"the Impugned Order"**) cancelled the GST Registration of the Petitioner retrospectively from January 15, 2023.

The Petitioner filed GSTR 3B dated July 24, 2023 after the cancellation of the registration, and paid tax along with interest and contended that GST software is not in consonance with the CGST Act and the Rules.

The Petitioner further contended that if the GST amount and the interest are paid, then the Petitioner cannot be held to be a defaulter for not filing the return, the proceedings for

cancellation of the registration becomes non est and the order cancelling registration ought to be restored.

Aggrieved by the Impugned Order the Petitioner filed a writ before the Hon'ble Kerala High Court to restore the order of registration cancellation.

**Issue:**

Whether Revenue Department can cancel the GST registration retrospectively if the assessee fails to file GSTR 3B for several years?

**Held:**

The Hon'ble Kerala High Court in ***WP(C) No.24904 of 2023*** held as under:

- Observed that, if Petitioner fails to file the returns for a continuous period of six months, his registration is liable to be cancelled, there is no contradiction in the provisions of Section 50 or Section 29 of the CGST Act.
- Opined that, provisions for cancellation of registration and making payment of the tax due with interest are different, both the provisions have different scope, purpose and intent.
- Noted that, an alternative remedy is available to the Petitioner as per the CGST Act and the Rules thereto, which the Petitioner should have resorted to within the statutory prescribed limit.
- Further Noted that, it cannot be said that the GST portal is not viable as the whole country files returns and pays tax by uploading the same in the same software.
- Held that, the Adjudicating Authority can cancel GST registration if Petitioner fails to make payment of the full GST amount or part thereof, and interest will be levied for any delayed payments.

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