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

Case No. : WP(C)/5944/2025

DHIRGHAT HARDWARE STORES AND ANR
A PROPRIETORSHIP FIRM HAVING ITS REGISTERED OFFICE AT SRIGRAM PT 6, HATIPOTA, CHAPAR, DHUBRI, ASSAM783348. REPRESENTED BY ITS SOLE PROPRIETOR I.E., THE PETITIONER NO.2

2: MAINUR ISLAM
SON OF LATE SHAHJAHAN ALI
RESIDENT OF VILLAGE- MAHISHBATHAN
P.O-TILAPAR
P.S-CHAPAR
DISTRICT - DHUBRI
ASSAM-783348

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY OF GOVERNMENT OF INDIA, MINISTRY OF FINANCE NEW DELHI-110001.

2:THE COMMISSIONER (APPEALS)

CENTRAL GOODS AND SERVICE TAX
CENTRAL EXCISE AND CUSTOMS
3RD FLOOR
GST BHAWAN
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001

3:THE ASSISTANT COMMISSIONER
CENTRAL GOODS AND SERVICE TAX
DHUBRI-1
ASSAM

4:THE SUPERINTENDENT
CENTRAL GOODS AND SERVICE TAX
DHUBRI-1
BONGAIGAON DIVISION
ASSAM

Advocate for the Petitioner : MR. A K GUPTA, MR. R S MISHRA

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

B E F O R E

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Advocate for the petitioners: Shri R.S. Mishra, Advocate

Advocates for the respondents : Shri K. Jain, learned counsel on behalf of Shri S.C. Keyal, Sr. SC, CGST.

Date(s) of hearing : 17.10.2025

Date of judgment : 17.10.2025

JUDGMENT & ORDER

Heard Shri R. S. Mishra, learned counsel for the petitioners and Shri K. Jain, learned counsel appearing on instructions of Shri S. C. Keyal, learned Senior Standing Counsel, CGST for the respondents.

2. It is the case of the petitioners that the petitioner no. 2 has been carrying out his business under the name & style, "M/S Dhirghat Hardware Stores". He is the sole proprietor and is an assessee registered under the Central Goods and Services Tax (CGST) Act, 2017/Assam Goods and Services Tax (AGST) Act, 2017

bearing registration No. 18AASFD1459Q1ZK. Because of non-filing of GST returns for a continuous period of six months, the petitioner was served with a show cause notice bearing reference No. ZA180123023279Q dated 15.01.2023 asking the petitioner to furnish reply to the aforesaid notice within a period of 30 (thirty) days from the date of service of notice and it was mentioned in the aforesaid show cause notice that if the petitioner fails to furnish a reply within the stipulated date or fails to appear for personal hearing on the appointed date and time, the case will be decided ex-parte on the basis of the available records and on merits. However, no date of hearing was notified. Thereafter, the impugned order dated 22.03.2023 was passed by the Superintendent, Dhubri-1, Bongaigaon Division, whereby the petitioner's GST registration has been cancelled without assigning any reason.

3. The petitioners contend that petitioner no. 2 being not much conversant with the online procedure, could not submit any reply to the said show cause notice. It is further contended that when the petitioner no. 2 came across the said notice, the time for filing reply was already over and order had also been uploaded in the portal. Though the petitioners preferred appeal, the same was dismissed vide order dated 09.10.2025.

4. The petitioners further contend that petitioners have updated all pending returns upto the month of March, 2023 as allowed by the GST portal and while updating returns, the petitioners have also discharged all GST dues along with late fees and interest.

5. Thereafter, the petitioners tried to file the necessary application seeking revocation of GST cancellation, however, the same could not be filed as the time limit prescribed for filing of revocation application was elapsed and a message was displayed in the screen "timeline of 270 days from the date of cancellation

order provided to taxpayer to file application for revocation of cancellation is expired.”

6. Being aggrieved, the petitioners have approached this Court by filing the present writ petition.

7. Mr. Mishra, learned counsel for the petitioners has submitted that the petitioners are ready and willing to comply with all the formalities required as per proviso to sub-rule (4) of Rule 22 of the CGST Rules, 2017.

8. As per Section 29(2)(c) of the Act, 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 a continuous period of 6 (six) months. Rule 22 of the CGST Rules, 2017 has laid down the procedure for cancellation of the registration.

9. Rule 22 of the CGST Rules, 2017 being the bone of contention, is extracted herein below:-

> *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 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.

10. It is discernible from a reading of the proviso to sub-rule (4) of Rule 22 of the Rules of 2017 that if a person, who has been served with a show cause notice under Section 29(2)(c) of the Act, is ready and willing to furnish all the pending returns and to make full payment of the tax itself along with applicable

interest and late fee, the officer, duly empowered, can drop the proceedings and pass an order in the prescribed Form i.e. Form GST REG-20.

11. The learned counsel for the parties have also referred to an Order dated 11.10.2023 passed in a writ petition being WP(C) No.6366/2023 ***(Sanjoy Nath vs. The Union of India and others)*** wherein the petitioner therein was similarly situated like the present petitioners.

12. Having regard to the fact that the GST registration of the petitioner has been cancelled under Section 29(2)(c) of the Act, for the reason that the petitioners did not submit returns for a period of 6 (six) months and more and the provisions contained in the proviso to sub-rule (4) of Rule 22 of the CGST Rules, 2017 and cancellation of registration entails serious civil consequences, this Court is of the considered view that in the event the petitioners approach the officer, duly empowered, by furnishing all the pending returns and make full payment of the tax dues, along with applicable interest and late fee, the officer duly empowered, may consider to drop the proceedings and pass an appropriate order in the prescribed Form.

13. In such view of the matter, this writ petition is disposed of by providing that the petitioners shall approach the concerned authority within a period of 2 (two) months from today seeking restoration of her GST registration. If the petitioners submit such an application and complies with all the requirements as provided in the proviso to Rule 22 (4) of the Rules, the concerned authority shall consider the application of the petitioners for restoration of GST registration in accordance with law and shall take necessary steps for restoration of GST registration of the petitioner as expeditiously as possible.

14. It is needless to say that the period as stipulated under Section 73 (10) of

the Central GST Act/State GST Act shall be computed from the date of the instant order, except for the financial year 2024-25, which shall be as per Section 44 of the Central GST Act/State GST Act. The petitioners herein would also be liable to make payment of arrears i.e. tax, penalty, interest and late fees.

15. The writ petition accordingly stands disposed of. No cost.

JUDGE

Comparing Assistant