

GAHC010122292025



2025:GAU-AS:7434

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

**Case No. : WP(C)/3149/2025**

DEBASISH BORUAH  
S/O. LT. MNIN BORUAH, R/O. KAKODUNGA HABIGAON, P/O. BORHOLLA,  
P/S. URANGIAL, DIST. JORHAT, ASSAM, PIN-785631.

VERSUS

THE UNION OF INDIA AND 2 ORS.  
REP. BY THE SECRETARY OF GOVT. OF INDIA, MINISTRY OF FINANCE,  
NEW DELHI-110001

2:THE PRINCIPAL COMMISSIONER OF CENTRAL GOODS AND SERVICE  
TAX  
GST BHWAN KEDAR ROAD  
GUWAHATI

3:THE SUPERINTENDENT OF CENTRAL GOODS AND SERVICES TAX  
JORHAT-1  
JORHAT DIVISIO

**Advocate for the Petitioner** : MR. R S MISHRA, MS M NIROLA,MR. A K GUPTA

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

**BEFORE**  
**HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY**

**ORDER**

**Date : 06.06.2025**

1. Heard Mr. R.S. Mishra, learned counsel for the petitioner.
2. It is the case of the petitioner that he is an Assesee

registered under the provisions of the Central Goods and Services Tax (CGST) Act, 2017/Assam Goods and Services Tax (AGST) Act, 2017 bearing registration No. 18AXDPB6784C2ZJ and 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. ZA181123011097Z dated 13.11.2023 asking him to furnish reply to the aforesaid notice within a period 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 fail 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 for personal hearing was ever notified. Thereafter, the impugned order dated 24.04.2024 was issued by the Superintendent, Jorhat-1, respondent No.3, cancelling GST registration of the petitioner for not furnishing returns for a continuous period of 6 (six) or more months.

3. Thereafter, the petitioner 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.

4. Being aggrieved, the petitioner approached this Court by filing the present writ petition.

5. Mr. Sharma, learned counsel appearing for the petitioner has submitted that due to reasons beyond his control, the petitioner could not submit the returns required to be submitted under Section 39(1) of the CGST Act, 2017 for a period of about 6 (six) months or

more. However, he has submitted that the petitioner is 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.

6. 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 a continuous period of 6 (six) months. Rule 22 of the CGST Rules, 2017 has laid down the procedure for cancellation of the registration.

7. Rule 22 of the CGST Rules, 2017 being bone of contention is quoted 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.*

8. It is discernible from a reading of the proviso to sub-rule (4) of Rule 22 of the CGST Rules 2017 that if a person, who has been served with a show cause notice under Section 29(2)(c) of the CGST Act, 2017, 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.

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

petitioner.

10. Having regard to the fact that the GST registration of the petitioner has been cancelled under Section 29(2)(c) of the CGST Act, 2017 for the reason that the petitioner 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 petitioner approaches 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, has the authority and jurisdiction to drop the proceedings and pass an order in the prescribed Form.

11. In such view of the matter, this writ petition is disposed of by providing that the petitioner shall approach the concerned authority within a period of 2 (two) months from today seeking restoration of his GST registration. If the petitioner submits such an application and complies with all the requirements as provided in the proviso to sub-rule (4) of Rule 22 of the CGST Rules, 2017, the concerned authority shall consider the application of the petitioner for restoration of his GST registration in accordance with law and shall take necessary steps for restoration of GST registration of the petitioner as expeditiously as possible.

12. With the observations made and the direction given above, the writ petition is disposed of. No cost.

13. 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 judgment, except for the financial year 2024-25, which shall be as per Section 44 of the Central GST Act/State GST Act. The petitioner herein also be liable to make payment of arrears i.e. tax, penalty, interest and late fees.

**JUDGE**

**Comparing Assistant**