04. 06.08.2018

Heard learned counsel for the petitioner and learned Additional Standing Counsel for the Revenue.

In the present writ application, the petitioner has sought to challenge the order dated 19.01.2018 under Anenxure-5 canceling the provisional registration granted to the petitioner under the G.S.T. Act. Further, the petitioner's application for restoration of the registration certificate was made before the CT & GST Circle, Cuttack-I, West and it appears from a communication dated 27.06.2018 under Annexure-7 that the same has also been rejected. Hence, the present writ petition.

Several writ applications have been filed before this Court on the issue of migration from VAT to GST and continuing registration of dealers and migration of such VAT dealers to GST regime. It is asserted on behalf of the petitioner that in spite of all attempts made by him to upload the necessary information on the website of the GST Portal and on failure of achieving such object, the dealers have also been forced to manually comply by submitting copies thereof before various authorities but it appears that such authority showed their helpless in this regard and stated that they cannot accept such manual compliance. Consequently, registrations in several matters have been cancelled.

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After these problems were brought to the notice of the Commissioner of Commercial Taxes and GST, Odisha, he has been issued to the GST Circle

Heads throughout the State for carrying out restoration of cancelled GST provisional registration by letter dated 03.08.2018 which is quoted hereunder:

"Commissionerate of the CT & GST: Odisha (At Cuttack)
(Finance Department, Government of Odisha)
No.11533/CT, Dated 3/8/18
IT-20/1/2018-17

TO

CT & GST Circle Head (All Circles)

Sub: Restoration of Cancelled GST Provisional Registration

Madam/Sir,

It is found that in some cases the provisional registration issued to a tax payer has been cancelled/rejected by the Proper Officer(s) of the respective jurisdictional office due to certain shortcoming. As a result, the GSTIN of such tax payer has been deactivated in the GSTN system and such tax payer is not able to file his tax returns or generate e-Waybills. Many such taxpayers have approached this office with a request to revoke such cancellation order.

In the meanwhile, GSTN has made available the facility to restore such cancelled provisional registration by the Proper Officer. Now, therefore, the Proper Officers are hereby instructed to take immediate steps for restoration of the cancelled provisional registrations after due compliance of the shortcomings by the concerned tax payer. This may be accorded top most priority since the tax payers are not able to transact their day-to-day business and also are not able to file their returns for want of active registration number. You are directed to monitor this work so as to resolve all such cases pertaining to your circle. However, if any such tax payer does not want to restore his cancelled provisional Registration, his cancelled provisional registration shall not be restored by the Proper Officer.

The progress in this regard will be reviewed every week.

Yours faithfully,
Sd/-
Commissioner
of CT & GST, Odisha

Memo No.11534/CT, Dated 3/8/18

Copy forwarded to the Head of CT & GST Territorial Range (All Ranges) for kind information.

Sd/-
Addl. Commissioner
of CT & GST (IT)"

While commending such action on the part of the Commissioner, it is essential for the Commissioner as well as his colleagues to understand that any impediment caused to registered dealers in carrying on their business will also have a direct impact on the collection of revenue for the State. Therefore, action in this regard would be in the interest of all.

We find that although under the GST regime all applications required to be done online. in the event any dealer faces any problem in uploading such data, the Commissioner ought to place alternative authority with the Sales Tax Officer or appropriate officer before whom manual returns can be filed and or the dealers be assisted in uploading the necessary information at their respective offices. The Officer cannot throw their hands in desperation and blame the computer or the failure of uploading and consequently lead to cancellation of registration. This is neither in the interest of the State nor of the dealer. Since a circular has been issued by the Commissioner on 03.08.2018 which is quoted hereinabove, we direct the CT & GST Circle, Cuttack-I, West to attend the problems faced by the petitioner forthwith in terms of the direction issued by the Commissioner positively within a week from the date of receipt of a certified copy of this order.

With the aforesaid observation and direction, this writ application is disposed of.

Free copy of this order be handed over to the learned Additional Standing Counsel for the

Revenue for necessary communication and compliance.

Urgent certified copy of this order be granted on proper application.

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I.Mahanty,J.

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Biswajit Mohanty,J.