

GAHC010005662026



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

Case No. : WP(C)/266/2026

EX SERVICEMEN WELFARE TRAINING AND SECURITY SERVICE
A PARTNERSHIP FIRM, HAVING ITS REGISTERED OFFICE AT HOUSE NO.
27, MILIJULI PATH, SATGAON, KAMRUP (M), ASSAM, PIN-781027,
REPRESENTED BY ITS MANAGING PARTNER SRI RAMESH CH. SHILL.

VERSUS

THE STATE OF ASSAM AND 4 ORS.
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM, DEPARTMENT OF FINANCE AND TAXATION, DISPUR, ASSAM.

2:THE PRINCIPAL COMMISSIONER
STATE TAX

KAR BHAWAN
G.S. ROAD
DISPUR
GUWAHATI-781006.

3:THE JOINT COMMISSIONER OF STATE TAX (APPEALS)

GUWAHATI.

4:THE SPECIAL COMMISSIONER OF STATE TAX

GUWAHATI-C-5.

5:THE JURISDICTION OFFICER/ASSISTANT OFFICER OF STATE TAX

GUWAHATI-C-5

Advocate for the Petitioner : MR. R S MISHRA, MS. M DEY,MS B SARMA

Advocate for the Respondent : SC, FINANCE AND TAXATION,

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

28.01.2026

Heard Mr. R. S. Mishra, learned counsel for the petitioner. Also heard Mr. B Chowdhury, learned Standing Counsel, Finance and Taxation Department.

2. This writ petition is filed challenging the order dated 07.12.2024 passed by the respondent No. 5, whereby the GST registration of the petitioner was cancelled in terms of the provisions of Section 39 of the Central Goods and Services Tax Act, 2017. The petitioner thereafter preferred an application for revocation of cancellation of registration in Form GST REG-21 on 06.02.2025. The petitioner was served with a show-cause notice on 11.02.2025 whereby he was asked to furnish a reply as to why the application dated 06.02.2025 shall not be rejected and thereafter, the application for revocation of cancellation was rejected by order dated 12.03.2025 by the respondent no.4. Thereafter, the petitioner preferred an appeal against the impugned order of cancellation dated 12.03.2025 under Section 107 of the Central Goods and Services Tax Act, 2017. However, the said appeal also came to be dismissed as being time barred by the Appellate Authority, namely, respondent No. 3 vide order dated 16.12.2025,

which is also impugned in the writ petition.

3. The petitioner is engaged in the business of Providing Security Services. According to the petitioner, the order of cancellation of the GST registration was passed without any notice to the petitioner. Subsequently, the petitioner came to be informed that a notice to show cause was issued to the petitioner vide Reference No. ZA181124004776M dated 06.11.2024. The said show cause was purportedly issued under Rules 22(1) and Rules 21A(2A) of the Central Goods and Services Tax Act, 2017. However, vide the said notice, the GST registration of the petitioner was suspended on 06.11.2024 itself, namely, the date of issuance of the show cause notice. The petitioner is aggrieved that there was no personal notice served upon the petitioner prior to suspension and cancellation of the GST registration rather a notice was simply uploaded in the website of the department. According to the petitioner, such actions of the respondent authority are in complete violation of the Rules of natural justice as well as the provisions of the GST Act and the Rules. The learned counsel for the petitioner submits that this action of the respondent authorities is punitive in nature and has the effect of putting the business of the petitioner to a complete halt as without the GST registration he is unable to continue with his business as it is only source of his livelihood.

4. It is submitted by the learned counsel for petitioner that pursuant to the cancellation of the GST registration, he had preferred an appeal under Section 107 of the CGST Act, 2017 before the Appellate Authority, namely, the respondent No. 3 herein. However the same also came to be dismissed as being barred by limitation. It is the submission of the learned counsel for the petitioner that since there was no personal notice served on the petitioner he came to be aware subsequently that his GST registration has been suspended and that a notice to show cause was issued by respondent No. 5. However, the said notice was put up only on the website of the Department and, therefore, by the time the petitioner became aware of the suspension of his GST registration and subsequent cancellation of GST registration, the period of limitation as prescribed under the Act had already elapsed for filing an application for revocation of the cancellation of GST registration under Section 30 of the CGST Act, 2017. An appeal filed before the Appellate Authority was also dismissed on the ground of limitation. It is, therefore, submitted that there being no other alternative remedy available to the petitioner, the present writ petition has been filed seeking appropriate writ, direction and orders from this Court to the respondent authorities. It is further submitted that the petitioner had already deposited the statutory dues.

5. The learned standing counsel, GST fairly submits that there are orders passed

by the other Co-ordinate Benches in respect of the cancellation of GST registration and, therefore, this writ petition can also be disposed of in terms of similar directions.

6. The learned counsels for the parties have been heard. Pleadings on record have also been duly perused.

7. Learned counsel for the parties have also rendered to orders 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 petitioner.

8. From the pleadings, it is seen that the order for cancellation of GST registration of the petitioner was issued on 06.11.2024 and thereafter, an appeal under Section 107 was filed on 13.12.2025. It is apparent that the order for cancellation of GST registration was passed on 07.12.2024 and the order for revocation of cancellation was required to be filed within 30(thirty) days therefrom as per the provisions of the CGST Act, 2017.

9. Under Rule 23(1) of the GST Rules of 2017 it is provided that no application for revocation shall be filed unless such returns are furnished and any amount due as tax in terms of such returns has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns. It is

the further case of the petitioner that against the order of cancellation of its GST registration, the petitioner had preferred an appeal before the Appellate Authority under Section 107 of the GST Act, 2017. It is submitted that the said appeal in terms of the provisions of Section 107 ought to have been filed within a period of 3(three) months from the date of the order against which the appeal is preferred, namely, the order of cancellation. However, his appeal was rejected by the respondent no.3 on the ground that there was delay in filing the appeal after communication of the impugned order as provided under Section 107(4) of the CGST Act, 2017 which is beyond the purview of the Appellate Authority.

10. The purpose of limitation being prescribed in a statute is two folds, namely, to ensure compliance of the statutory provisions by the persons on whom the provisions of the statute are applicable and further to ensure that no third party rights which may have been created in the meantime are permitted to be non suited/unsettled. Under the scheme of GST Act and Rules, the non-revocation of cancellation of GST registration is likely to prejudice the assessee alone. In cancellation of such GST registration for the reasons mentioned under the Section, it cannot be said that any third party rights are created against the assessee. No prejudice is caused to any other person, if the GST registration of the petitioner/assessee is revoked. No prejudice is caused to the revenue. Rather as discussed above, it will be in the interest of the revenue to permit the

revocation of a cancellation of GST registration of an assessee like the petitioner so that it facilitates collection of revenue as mandated under the GST Regime.

11. A writ Court is empowered to condone the delay of any statutory or quasi judicial authority. Such power is inherent in a Writ Court [Commissioner of Income Tax-12 –Vs- Pheroza Framroze and Company – (2017) 11 SCC 730]. Accordingly, in view of the above discussions and on the facts and circumstances of this case, this Court is of the considered view that the appeal before the Appellate Authority should be re-heard on merits by passing appropriate orders regarding the revocation of cancellation of GST. The impugned order dated 16.12.2025 dismissing the appeal is hereby set aside. It is, therefore, ordered that the appeal be heard again after afresh disposed of by the Appellate Authority on merits rather than dismissing or rejecting the same on the ground of limitation and requiring the petitioner to approach this Court once again by filing a writ.

12. It is directed that the respondent No. 5 will intimate the petitioner the total outstanding statutory dues standing in the name of the petitioner till the date on which his GST registration was cancelled i.e. 07.12.2024. Upon such intimation, if any such outstanding statutory dues under GST are required to be paid, the same shall be deposited by the petitioner without fail. Upon such

payment of statutory dues under the GST by the petitioner, the cancellation of the GST registration in respect of the writ petitioner shall be considered to be revoked by the respondent authorities. Upon such revocation, the petitioner will continue to deposit his statutory dues, if any, periodically as mandated by the CGST Act, 2017.

13. With this direction, the writ petition stands disposed of in terms of the above. No cost.

JUDGE

Comparing Assistant