

GAHC010182832025



2026:GAU-AS:1393

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

Case No. : WP(C)/4840/2025

MS N CHETIA AND SONS TRADING AND 2 ORS
REPRESENTED BY ITS MANAGING PARTNER, SRI MUKUL GOGOI
ADDRESS- GOBINDPUR, P.O. PANITOLA
P.S. AND DIST. TINSUKIA, ASSAM

2: SRI MUKUL GOGOI
S/O LATE SURENDRA NATH GOGOI
R/O DIGHALIBARI VILLAGE
CHABUA
DIBRUGARH
ASSAM
PIN-786184.

3: SMTI. BARNALI GOGOI
W/O MUKUL GOGOI
D/O LATE MUHIDHAR GARPHALIA

R/O DIGHALIBARI VILLAGE

CHABUA
DIBRUGARH
ASSAM
PIN-78618

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOV.T
OF ASSAM, FINANCE AND TAXATION DEPARTMENT, DISPUR, JANATA
BHAWAN, DISPUR, GUWAHATI-6, ASSAM

2:THE PRINCIPAL COMMISSIONER OF STATE TAX

ASSAM GOODS AND SERVICE TAX

KAR BHAWAN

GUWAHATI
ASSAM
PIN-781006.

3:THE JOINT COMMISSIONER OF STATE TAX

ASSAM GOODS AND SERVICE TAX
TINSUKIA
ZONE
TINSUKIA
ASSAM
PIN-786125

4:THE ASSISTANT COMMISSIONER OF STATE TAX

ASSAM GOODS AND SERVICE TAX
TINSUKIA ZONE
TINSUKIA
ASSAM
PIN- 786125

Advocate for the Petitioner : MR SAURADEEP DEY, MR. D GOGOI(P-2,3),MR S BORTHAKUR(P-2,3)

Advocate for the Respondent : SC, FINANCE AND TAXATION,

**BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN**

ORDER

04.02.2026

Heard Mr. S. Barthakur, learned counsel for the petitioners and Mr. B. Chowdhury, learned Standing Counsel for the Finance & Taxation.

2. This proceeding, under Article 226 of the Constitution of India, is instituted by petitioners seeking following relief(s):-

(i) Setting aside and quashing the Show-Cause Notice for Cancellation of Registration, bearing Reference Number: ZA1808210297964,

dated 23.08.2021, issued by the Deputy Commissioner of State Tax, Tinsukia Zone, Assam;

- (ii) Setting aside and quashing the Order for Cancellation of Registration, bearing Reference Number: ZA1809210173150, issued by the Deputy Commissioner of State Tax, Tinsukia Zone, Assam;
- (iii) Setting aside and quashing the Show-Cause Notice, dated 29.11.2024, issued to the petitioner firm under Section 74 of the Assam Goods & Services Tax Act, 2017, for the financial year 2020-2021 and all consequential actions taken there under;
- (iv) Setting aside and quashing the Summary of Show-Cause Notice in Form GST DRC-01, dated 29.11.2024, issued to the petitioner firm under Section 73 of the Assam Goods & Services Tax Act, 2017, for the financial year 2020-2021 and all consequential actions taken there under;
- (v) Setting aside and quashing the Demand Notice, dated 20.02.2025, issued to the petitioner firm under Section 74 of the Assam Goods & Services Tax Act, 2017, for the financial year 2020-2021 and all consequential actions taken there under;
- (vi) Setting aside and quashing the Order, dated 20.02.2025, issued under Section 73 of the Assam Goods & Services Tax Act, 2017, for the financial year 2020-2021, along with summary of the Order in Form GST DRC-07 and all consequential actions taken there under;
- (vii) Setting aside and quashing the Show-Cause Notices issued to the

petitioner firm under Section 74 of the Assam Goods & Services Tax Act, 2017, for the financial years 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024 and all consequential actions taken there under;

(viii) To issue direction to the respondent authorities to defreeze the bank accounts of the petitioners and also prayed for setting aside and quashing the Letter No. 1873, dated 04.04.2025, issued by the Assistant Commissioner of State Tax, Tinsukia Unit, to the Garrison Engineer, Dinjan, Dinjan MES.

3. The background facts, leading to filing of the present petition is briefly stated as under -

"The petitioner No. 1, namely, **"M/s N Chetia & Sons Trading"** is a partnership firm and the petitioners Nos. 2 & 3 are its partners. The Partnership firm was carrying contract and other supply business in different departments, including MES Govt. department i.e. GARRISON ENGINEER DINJAN on the strength of orders issued from time to time. The Assessee firm has its registered office at Gobindapur, Panitola, Tinsukia, Assam, PIN: 786183, and the firm holds GST registration under the Assam Goods and Services Tax Act, 2017 bearing Registration No.- **18AAHFN2023R2ZW**.

The GST registration of the petitioner firm was cancelled in 2021, after issuing a notice of show cause, dated 23.08.2021, due to non-filing of monthly returns and consequential non-payment of GST liabilities and subsequently the same was cancelled.

Thereafter, Show-cause notices were issued to the petitioners and proceedings were initiated for recovery of GST dues of the petitioner No. 1 firm and pursuant to the said proceedings, the bank accounts of the petitioners have also been attached and even departments like Dinjan Garrison MES have also been instructed to not allot any work to the petitioner firm.

The petitioner No.2 the managing partner was not well versed technically and the show cause notice were never served physically and also not aware of the consequence of default in GST payment, which was uploaded in the portal only. The return of the firm could not be filed due of lack of proper communication with their tax advisor.

Now, the petitioners are willing to file all their pending monthly returns and to pay the outstanding GST liabilities, if they are provided an opportunity to do so and under such circumstances, the petitioners have approached this Court by filing the present petition, seeking the reliefs as aforesaid."

4. The respondent No. 2 has filed the affidavit-in-opposition, taking a stand that every registered person is required to furnish a return for every tax period, declaring outward supplies, onward supplies, input tax credit availed, tax payable and paid under Sections 37, 38, 39, 44 & 45; and the petitioners have failed to furnish the returns, including the late fee, interest, restriction on ITC, continuously for six months for which the state tax authority had cancelled the GSTIN, under Section 29(2), which permits such cancellation of the GSTIN. And before such cancellation notices were served upon them.

And there is no question of violation of the principles of natural justice as on receipt of notice, the petitioner firm has failed to file return and pay the tax under Section 83 of the AGST Act, 2017.

Thereafter, the bank account of the petitioner firm was attached and that the tax payer cannot claim protection under Section 19(1)(g) of the Constitution of India, while simultaneously ignoring statutory obligations. It is also stated that defreezing of the bank accounts can be made only on payment of tax dues, furnishing of sufficient security or on commissioner's satisfaction that attachment is no longer necessary. It is also stated that there is no merit in this petition and under such circumstances; it is contended to dismiss this petition.

5. The petitioners have filed an additional affidavit, denying the statements and averments made by the respondent No. 2 in the affidavit-in-opposition. It is stated that the GST Registration of the Firm was cancelled vide Order dated 15.09.2021, bearing Reference No. ZA1809210173150. And once GST registration is cancelled, the GST portal disables filing of regular returns i.e. GSTR-1 & GSTR-3B and it is a system-driven restriction. Therefore the petitioners are not in a position to file the pending monthly returns for the remaining part of FY 2021-22 and the subsequent period thereafter. But, the basic relationship between GSTR-1 and GSTR-3B is that GSTR-1 is a return of outward supplies containing invoice wise details of taxable supplies, Zero rated supplies, exempted/nil-rated supplies including debit note/credit notes and GSTR-3B is a summary return for self-assessed tax liability and payment of tax made and also claim of input tax credit (ITC). And unless cancellation of the GST is revoked the petitioners are not in a position to file the necessary returns

and the correct GST dues of the petitioner firm and also it would not be in a position to clear the outstanding amount unless the ban accounts are defreeze.

It is also stated that serious hardship is caused to the petitioner firm and some urgent works, such as operation of A/C Plant, including the Central Air Conditioning at Military Hospital, Dinjan, could not be made by the petitioner firm which resulted in disruption of Operation Theatre (OT) and Intensive Care Unit (ICU) at the said Hospital.

6. Mr. Barthakur, learned counsel for the petitioners submits that the petitioners are willing to file the return and to clear the tax liability, but the same could not be done as the GST registration of the petitioner firm has been cancelled and the bank accounts of the petitioner firm were attached and unless, the bank accounts are defreezed, the petitioners will not be able to make payments of the taxable amount and also, the petitioner No. 1 cannot file return, unless the GST cancellation is revoked.

6.1 It is the further submission of Mr. Barthakur that since the petitioners are now ready to clear the tax liability and also to file return they may be permitted to do so by clearing the tax liability in installments, in view of Section 80 of the Act of 2017.

6.2 Mr. Barthakur, referring to 'Annexure-18 Series' of this petition, submits that the petitioner firm has already filed return and also paid some amount.

6.3. Mr. Borthakur also submits that the learned counsel for the respondent authorities were directed by this Court vide order, dated 30.01.2026, to obtain instruction in respect of defreezing the bank accounts

and also in respect of the prayer of the petitioners to grant them liberty to make payment of the liability due in respect of the GST in installments.

7. Mr. B. Chowdhury, learned counsel for the respondent authorities, on instruction has apprised this Court that the petitioners have to show their intention to make payment of the amount and if they are willing to pay the amount, then the cancellation order of GST of the petitioner firm has to be revoked first and the petitioners have to file their return and that they also have to file an application under Section 80 of the CGST, 2017, and if the petitioners have already made some payment, then the same has to be adjusted against the liability.

8. Mr. Chowdhury submits that he has no objection in the event of granting two week's time and granting liberty to the petitioners to approach the respondent authorities by filing application for revocation of the GST cancellation order and for allowing them to file return and to file an application under Section 80 of the CGST Act, 2017 and that if the petitioners have already made some payment, the same has to be adjusted against the liability.

9. At this stage Mr. Borthakur submits that the petitioners may be granted liberty to file an application under Section 80 of the Central Goods & Services Act, 2017 and they may also be granted liberty to file an application for revocation of the cancellation of the GSTIN of the petitioners and also may be granted liberty to file the return and thereafter, an application under Section 80 of CGST Act, 2017, for allowing them to make payment in installments and also, they may be granted two week's time to complete the aforesaid exercise.

10. Having heard the submissions of learned counsel for both the parties, this Court has gone through the pleading of the parties and the documents enclosed therewith.

11. In view of the submission of the learned counsel for both the parties and also considering the facts and circumstances on the record and as agreed upon by learned counsel for both the parties, this Court is inclined to dispose of this petition by granting liberty to the petitioners to file an application for revocation of the GSTIN cancellation and thereafter, to file an application for allowing them to file return and also to file an application under Section 80 of the CGST Act, 2017, allowing them to clear the liability in installments and on such application being filed, the bank accounts of the petitioners shall be defreezed.

11.1. However, this deferezing is subject to the condition that the petitioners shall file sufficient security in terms of Rule 159(5) of the Assam GST Rule, 2017.

12. The petitioners are granted one week time to file the application, as mentioned hereinabove, and on such application being filed, the respondent authorities, within a period of two weeks, shall dispose of the same.

13. In terms of the above, this writ petition stands closed.

JUDGE

Comparing Assistant