

GAHC010024982026



2026:GAU-AS:2289

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

Case No. : WP(C)/878/2026

SHASHI KUMAR CHOUDHURY
SON OF SHRI JAGDISH PRASAD CHOUDHARY, RESIDENT OF SPACE TOWN
HOUSING COMPLEX, BL-4, FLAT- 5J, VIP ROAD, KOLKATA-700052, WEST
BENGAL WHO IS THE SOLE PROPRIETOR OF THE PROPRIETORSHIP
CONCERN M/S S. K. ENTERPRISES HAVING ITS PRINCIPAL PLACE OF
BUSINESS NEAR RITURAJ HOTEL, 3RD FLOOR, TALUKDAR BUILDING
KEDAR ROAD, GUWAHATI, KAMRUP METROPOLITAN, ASSAM-781001.

VERSUS

UNION OF INDIA AND 3 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, NORTH BLOCK,
NEW DELHI-110001.

2:PRINCIPAL COMMISSIONER
CENTRAL GOODS AND SERVICES TAX
GST BHAWAN
KEDAR ROAD
GUWAHATI-781001.

3:ASSISTANT COMMISSIONER
CGST RANGE-I
GST BHAWAN
2ND FLOOR
ROOM NO. 212
KEDAR ROAD
MACHKHOWA
GUWAHATI-781001.

4:SUPERINTENDENT
CGST AND CX

I-A RANGE
GST BHAWAN
KEDAR ROAD
GUWAHATI-781001

Advocate for the Petitioner : DR. ASHOK SARAF, MR P BARUAH,MR. P DAS,MR. N N DUTTA,MR S J SAIKIA,MR P K BORA,B SARMA,MR. A. KAUSHIK

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

BEFORE
THE HON'BLE MR JUSTICE ARUN DEV CHOUDHURY
O R D E R

17.02.2026

1. Heard Dr A. Saraf, learned Senior Counsel for the petitioner. Also heard Mr. S. Chetia, learned standing counsel for the CGST. Mr. S Kakati, learned counsel is also present representing the respondent No. 1.
2. As agreed to by the learned counsel for the parties and considering the matter in its entirety, the instant writ petition is disposed of at the motion stage itself.
3. The petitioner challenges the show-cause notice dated 10.09.2025 issued by the Proper Officer, the order dated 25.08.2025 cancelling the GST registration, and the order dated 31.10.2025 rejecting the application for revocation of the order cancelling the registration.
4. The notice dated 10.09.2025 was issued by the Proper Officer proposing cancellation of GST registration under Rule 21(e) of the Central Goods and Services Tax Rules, read with Section 16 of the CGST Act.

5. The impugned notice, in its entirety, states that the petitioner has “**availed input tax credit in violation of Section 16 of the Act and the Rules made thereunder**” and was called upon to show cause as to why registration should not be cancelled.

6. The petitioner filed a detailed reply on 19.08.2025, raising a preliminary objection that the notice does not disclose the tax period, the invoices involved, the supplier concerned, the quantum of the credit alleged to be irregular, etc. and specifically pleads that the show cause notice does not provide the details of the allegation to properly make a reply.

7. In a communication dated 08.08.2025, the Joint Director requested the Principal Commissioner of CGST, Guwahati, to cancel the petitioner's GST registration.

8. It is important to record that such a request was made, as discernible from the aforesaid communication, at a stage when an investigation was going on against the petitioner.

9. In response to such a request, the impugned order cancelling the registration dated 25.08.2025 was issued.

10. Subsequently, the petitioner, by its communication dated 10.09.2025, requested the revocation of the cancellation of his registration pending the investigation.

11. In reference to the prayer of revocation, a communication dated 26.09.2025, purportedly a show-cause notice, was issued; however, the contents of the show-cause notice reflect that the application of the petitioner has already been examined and the same is liable to be rejected for the reason cited in the aforesaid

show-cause notice dated 26.09.2025, which is quoted hereinbelow:

“Reason for revocation of cancellation-Others (Please specify)-As per DGGI interim investigation report, the applicant has availed ITC of 8.26 Cr. Without the same being reflected in GSTR-2B. No evidence submitted, condition of 16(2) has been followed. Application for Revocation of Cancellation under Rule 21(e) is liable to be rejected.”

12. Even then, the petitioner submitted a reply on 03.10.2025, which was rejected by the impugned communication dated 31.10.2025, recording the following reasons:

“Reason for revocation of cancellation –Others (Please specify)- As per DGGI interim investigation report, the applicant has availed ITC of 8.26 Cr. Without the same being reflected in GSTR-2B. No evidence submitted, condition of 16(2) has been followed. Application for revocation for cancellation under Rule 21(e) is liable to be rejected.”

13. Referring to the judgment of the Hon'ble Apex Court in ***Orient Paper Mills Ltd. vs. Union of India*** reported in ***(1968) SCC Online SC 59***, Dr. Saraf argues that the power exercised by the authorities are quasi judicial power and such power cannot be controlled by direction issued by any other authorities inasmuch as in the present case the entire process has been initiated based on request of investigating officer. Accordingly, he submits that no authority, however high, can control the decision of the proper quasi-judicial authority.

14. Per contra, Mr. Chetiya argues that there is no procedural

lapse and the entire exercise was carried out in strict adherence to the Act'2017 and the Rules framed thereunder. And therefore, does warrant any interference in the hands of this writ Court.

15. The materials placed before this Court reveal a disturbing inversion of the statutory scheme under the Central Goods and Services Tax enactments.

16. As recorded hereinabove, the petitioner calls into question with three interlinked directions: the show-cause notice dated 10.09.2025; the order dated 25.08.2025, cancelling the petitioner's GST registration; and the order dated 31.10.2025, rejecting the application for revocation.

17. When examined in sequence, they disclose not an independent exercise of statutory discretion, but a mechanical endorsement of an investigative dictum.

18. The foundation of the impugned action is a communication dated 08.08.2025, by the Joint Director requesting the Principal Commissioner, CGST, Guwahati, to cancel the petitioner's GST registration.

19. The undisputed record authored by the GST authorities makes it abundantly clear that such a request was made at a stage when the investigation was ongoing.

20. The statute does not contemplate that a quasi-judicial authority, while exercising its power under Section 29 of the CGST Act, 2017, read with Rule 21(e) of the CGST Rules, 2017, acts at the dictate of an investigating wing.

21. The power to cancel registration has a serious civil

consequence. It deprives a taxable person of the ability to carry on business in a regime where registration is the gateway to the trade. Such power must be exercised on objective satisfaction of jurisdictional facts, founded on the material disclosed to the noticee by adherence to the principles of natural justice.

22. The show cause notice dated 10.09.2025, states, in its entirety, that the petitioner has “**availed input tax credit in violation of Section 16 of the Act, 2017 and the Rules made thereunder.**”

23. No tax period is mentioned. No invoice is identified. No supplier is named. No quantification is provided.

24. A notice that is meant to serve as the charter of acquisition cannot be reduced to a ritualistic recitation of statutory language.

25. Section 16 of the Act, 2017, prescribes the conditions for eligibility to input tax credit; Rule 21(e) of the Rules, 2017, contemplates cancellation, where registration is obtained or retained by fraud, willful misstatement or suppression of fact, or where credit is availed in violation of the Act in a manner that attracts the Rule.

26. A bald reproduction of the statutory provision does not satisfy the requirement of “**due notice**”.

27. The petitioner, in its reply dated 19.08.2025, specifically objected to the vagueness of the allegation and asserted that, in the absence of particulars: tax period, invoices, suppliers, and quantum, it was impossible to furnish an effective response.

28. The said objection, in the opinion of this Court, strikes at the heart of natural justice.

29. An opportunity of hearing is not an empty formality; it must be meaningful. The failure to disclose the basic material on which the authority proposes to act renders the notice arbitrary and unsustainable.

30. More fundamentally, the sequence of events portrays predetermination.

31. The order of cancellation dated 25.08.2025 was issued in response to an investigative request dated 08.08.2025.

32. There is nothing on record to indicate that the proper officer independently evaluated the material or formed a satisfaction based on reasons of his own.

33. The law, in this regard, is well settled. In **Orient Paper Mills** (supra), the Hon'ble Apex Court held that when a statute vests quasi-judicial power in an authority, that authority must exercise the power independently, and cannot act under the dictation of a superior administrative authority.

34. Such a principle is not an administrative courtesy; it is a constitutional imperative flowing from the rule of law. The discretion conferred by the statute cannot be surrendered to another.

35. The infirmity is compounded in the proceeding for revocation.

36. The communication dated 26.09.2025, styled as show cause notice on the application for revocation, records that **“as per DGGI interim investigation report the applicant has availed ITC of Rs. 8.26 crore without reflection in the GSTR-2B”** and that **“no evidence submitted condition of 16(2) has been followed,”** and proceeds to

state that the application is liable to be rejected.

37. The language employed makes it evident that the mind was already made up.

38. A notice which declares liability to reject in the very same breath as it invites explanation, is a contradiction in terms.

39. The final order dated 31.10.2025, rejecting the revocation application, reproduces verbatim so called reasons contained in the earlier communication.

40. There is no independent reasoning. There is no analysis of whether the alleged discrepancy in GSTR-2B, assuming it exists, satisfies the statutory conditions under Section 16(2) or attracts the rigour of Rule 21(e).

41. A quasi-judicial order must speak for itself. It must demonstrate application of the mind to the objection raised. The repetition of the investigative allegation, as the sole ground of rejection, is indicative of the mechanical exercise of power.

42. Cancellation of registration is not to be used as a tool of coercion during investigation.

43. The act provides adequate machinery for assessment, adjudication and recovery. To cancel registration solely on the basis of an interim investigation report, without furnishing particulars and without independent satisfaction, amounts to obstructing the statutory process.

44. The cumulative effect of the circumstances and the reasons recorded hereinabove leads this Court to conclude the following:

(i) The show-cause notice dated 10.09.2025 is vitiated by vagueness and non-disclosure of material particulars.

(ii) The order dated 25.08.2025, cancelling the petitioner's GST registration, was passed under dictation and without exercise of independent quasi-judicial power;

(iii) The order dated 31.10.2025, rejecting the application for revocation, is a non-speaking order reflecting pre-determination.

45. In view thereof, the impugned show-cause notice dated 10.09.2025, order of cancellation dated 25.08.2025 and order dated 31.10.2025 are set aside.

46. The petitioner's registration shall stand restored forthwith.

47. It is, however, opined to the authority under the GST Act, 2017 to initiate fresh proceeding in accordance with law, if so advised, by issuing a detailed show-cause notice specifying the precise allegations; the tax period involved; the invoices and the suppliers relied upon and the quantification of the alleged ineligible credit and by affording the petitioner a reasonable opportunity of hearing.

48. The writ petition is allowed as indicated hereinabove.

49. The parties are to bear their own costs.

JUDGE

Comparing Assistant