

# TAX INFO

*Dated 08/12/2021*

Latest update on GST Law: Information regarding **Registration Cannot Be Cancelled On Technical Ground Of Minor Defect In The Sub-Let Agreement** as given in **Judgement by Calcutta High Court.**

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<b>Name of Petitioner</b>	M/s. CIGFIL Retail Pvt. Ltd.
<b>Name of Respondent</b>	Union of India
<b>Court</b>	Calcutta High Court
<b>Date of Judgement</b>	10/11/2021
<b>Appeal No.</b>	Writ Petition No.16415 of 2021

## **Facts of the Case:**

The petitioner has challenged the impugned order dated 8th February, 2021 cancelling its registration under GST on the ground that registration in question was obtained by documents void ab initio and that there was no existence of business at the declared place and the impugned order dated 16th April, 2021 rejecting the petitioner's application for revocation of cancellation and the order of the Appellate authority dated 25th August, 2021.

Such impugned order was passed after issuing show-cause-notice dated 1st February, 2021 and upon consideration of the reply to the said show-cause-notice. The impugned order of cancellation of registration was purely on technical ground of minor defect in the sub-let agreement, which was entered between the petitioner and the lessor, where the lessor has made some incorrect description about its status and for such incorrect description by the lessor, the petitioner cannot be faulted.

The petitioner contends that such incorrect description or such defect in the rent agreement was rectified by a supplementary agreement and this was produced before the authority concerned at the time of hearing of the show-cause-notice. So far as allegation of non-existence of the petitioner at the registered place is concerned, it is the case of the petitioner that during Covid-19, to avoid the violation of Covid-19 protocol, it was carrying on business from some other places and during this period it had paid tax to the State respondents from time to time and the State respondents/GST Authority concerned have received taxes under the GST for carrying on business at the relevant period, which are all parts of record.

## **Decision of the Court:**

Considering these facts of the case, it is not a case of tax evasion or causing revenue loss to the Government rather petitioner's activity of carrying on the business is creating revenue for the State as well as in helping the State to solve the problem of unemployment a little bit. Such type of drastic action in the facts and circumstances of the case by cancelling the registration of the petitioner on such hyper technical ground will not help the State rather it will cause revenue loss to the State as well as aggravate unemployment problem in the State which will be a social problem in the society.

The Court set asides the impugned order dated 16th April, 2021 and order of the Appellate Authority dated 25th August, 2021 confirming the cancellation of registration of the petitioner for revocation of cancellation of its registration, by directing the State respondent concerned to re-consider the case of the petitioner for revocation of cancellation of its registration. The respondent concerned will make a physical inspection of the premises in question upon notice to the petitioner and give opportunity to the petitioner to place all the documents to satisfy the respondent concerned about the actual physical possession of the petitioner at the premises in question and the respondent concerned may verify the existence of the petitioner at the premises in question as well as carrying on business activity of the petitioner from the premises in question from the local people and take a final decision by not taking a hyper technical view and pass a reasoned and speaking order after giving opportunity of hearing to the petitioner.

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