

GIB/KR/Banerji/29-11-2019/HC-2

High Court Category : Registration

State : Kerala

Order No.: GIB/KR/Banerji/29-11-2019/HC-2

Name of Entry :

M/S. Banerji Memorial Club

Date : 29-11-2019

Breif Issue :

Issue Involved:

Petitioners had filed an application for migration. Instead of mentioning the provisional GSTIN that was earlier granted to the petitioner, the petitioner inadvertently showed the new GSTIN that had been allotted to him in July 2018. This led to the respondents (revenue) taking a stand that the migration to the GST to cover the period from July 2017 onwards could not be accepted. Whether it is valid under the Law??

Fact of the Case :

Petitioner had service tax registration during the pre-GST period and transitional accumulated credit of service tax on the date of migration. He applied to migrate in GST Regime and allotted him provisional GSTIN. Due to non-completion of registration process within given time limit, GST Authority had cancelled the GSTIN. Further on request of petitioner, GST Authority had allotted a regular GSTIN in July' 2018. Further, through a notification, GST Department extend the due date for complete the migration process till 31.08.2018. Refereeing the above notification, petitioner had made application for migration to GST but in place of provisional GSTIN, petitioner mentioned regular GSTIN allotted in Jul' 2018. Due to this erroneous mistake, GST Authority did not accept to migrate the GSTIN w.e.f. July' 2017 by communicating that the application for migration was belated i.e. not completed within extended time limit.

Decision of Advance Ruling Authority :

Consideration and Decision by High Court:

High Court directed that where the assessee risks the loss of a substantive right that accrued to him, the revenue ought to relax the procedural requirements as to ensure that substantive benefits accrued to the assessee are not denied on account of mere technical lapses. High court also found that the identity of the assessee, who held a provisional GSTIN and regular GSTIN was under the supervision of GST Department, cannot prejudice caused to the revenue by allowing to migrate the accumulated credit in his account. Accordingly directed to the GST Authority that GSTIN granted to the petitioner in July'

2018, as covering the period from July 2017 onwards by making appropriate adjustments in the system.