IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7352 of 2022

Uma Shankar S/o Bidyanand Sharma Resident of Mahanth Maniyari, Kasimpur, Muzaffarpur, Mahanth Maniyari, Bihar, 843147, Sole proprietory of Kishan Khad Bikari Kendra, having its registered office at Mahanth Maniyari, 01, Kasimpur, Mahanth Maniyari, Kurhani, Muzaffarpur, Bihar, 843147.

... ... Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax having its office at Vikas Bhawan Bailey Road, Patna.
2. Joint Commissioner of State Tax, Muzaffarpur East, Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mrs.Manju Jha, Advocate Mr. Saurav Karn, Advocate
For the Respondent/s	:	Mr.Vikash Kumar (SC 11)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-06-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):

> "i. the order passed by respondent no. 2 dated 31.12.2019 (as contained in Annexure-2) cancelling the registration under Section 29 of the Bihar Goods and Services Tax Act, 2017 (hereinafter called the Act) be quashed.
>
> ii. the respondent no. 2 to be directed to restore registration under Section 22 of the Act to enable filing of return and payment of tax

in accordance therewith.

iii. For granting any other relief (s) to which the petitioner is otherwise found entitled to."

Vide order dated 31.12.2019, the Joint Commissioner of State Tax, Muzaffarpur East, Bihar has cancelled the petitioner's registration under the provision of Section 29 of the Bihar Goods and Services Tax Act, 2017. Prior thereto, notice to show cause was issued.

It cannot be disputed that with the passing of the said order, petitioner is liable to both civil and penal consequences. To say the least, the authority ought to have at least referred to the contents of the show cause and the response thereto, which was not done. Not only the order is non-speaking, but cryptic in nature and the reason of cancellation not decipherable therefrom. Principles of natural justice stand violated and the order needs to be quashed as it entails penal and pecuniary consequences.

Record, as made available, reveals that the petitioner had applied for registration which request was favourably considered by the authorities under the Act with a specific registration number allotted to the petitioner. Since the year 2017, petitioner has been regularly filing its return and depositing all dues. All this was done through the petitioner's Tax Consultant who was professionally engaged to undertake such task. Unfortunately, information of the returns for certain period not being uploaded, surfaced in the year 2019 and the cause was totally beyond the petitioner's reach. Perhaps, the Tax Consultant is no more in the land of living. Nonetheless, under further advice, petitioner filed the returns along with the late fine for the entire period preceding January, 2019. The tax liability was also discharged with the same being deposited, about which fact there is no dispute. The competent authority can condone the delay for filing the returns, in the attending facts and circumstances, more so, with the Onset of Pandemic Covid-19, preventing further follow up action. In the peculiar facts and circumstances, the authority ought to have condoned the delay which unfortunately was not done, despite the petitioner having made a fervent request for condonation of delay in accepting the return, preventing cancellation of registration.

Hence, for all the aforesaid reasons, the order dated 31.12.2019 passed by the respondent no.2, namely the Joint Commissioner of State Tax, Muzaffarpur East, Bihar is quashed with the petitioner's registration being restored, with a further direction to the respondent no.1, namely The Commissioner, Department of State Taxes, Government of Bihar, Patna to finalize the petitioner's assessment and/or pass appropriate orders, in accordance with law.

We reiterate that issue of delay in filing the returns shall remain closed and not raised again as is stated by Sri Vikash Kumar, learned SC 11, appearing for the respondents.

The writ petition stands allowed in the above terms.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	25.06.2022
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