IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14466 of 2022

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M/s Servotech India Limited and R.K. Madhani and Co. (J.V.), having its Place of Business at NA, Pakri, Arrah, Bhojpur through its Authorized Representative Ratnesh Kumar, Aged about 57 years, Male, Son of Sri Munishwar Kumar Singh, Resident of Natka Kuan, Bihta, P.S.- Bihta District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeals), Patna West Division, Patna.
4. The Joint Commissioner, State Tax, Shahabad Circle Arra, District Bhojpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mohit Agarwal, Advocate Mr. Lokesh Kumar, Advocate
For the Respondent/s	:	Mr.Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-11-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

(i) For quashing of order dated 26.08.2022 issued vide Memo No. 1511 dated 26.08.2022 passed by the Respondent Additional Commissioner, State Tax (Appeals), Patna West Division, Patna whereby the Appeal bearing No. GST/SH-28/22-23 has been dismissed at the admission stage on ground of delay without considering the same on merit;

(ii) For quashing of order dated 07.10.2021 passed by the Joint Commissioner of State Tax, Shahabad

Circle, Arrah, District Bhojpur whereby the GST Registration of the Petitioner was cancelled for non-filing of returns for a continuous period of six months without giving proper opportunity of filing reply and personal hearing;

(iii) For direction upon the Respondent No. 4 to revoke the order of cancellation of GST Registration of the petitioner in order to enable the petitioner to file its return from the period October, 2021 till date; for grant of any relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.

Vide order dated 07.10.2021 (Page 14 to the brief), the Joint Commissioner of State Taxes, Shahabad, has cancelled the petitioner's registration under the provision of Section 29 of the Bihar Goods and Services Tax Act, 2017. The order is extracted in toto as under:-

"**Reference Number: ZA101021016139G**

Date: 07/10/2019

To
SERVOTECH INDIA LIMITED & R.K.MADHANI & CO.(J.V) NA, PAKRI, ARA, Bhojpur, Bihar, 802301
GSTIN/UIN:10AAKAS8954L2ZY
Application Reference No. (ARN): AA100921005613X

Date: 02/09/2021

Order for Cancellation of Registration

This has reference to your reply dated 30/10/2021 in response to the notice to show cause dated 02/09/2021
Whereas no reply to notice to show cause has been submitted;

The effective date of cancellation of your registration is 10/09/2021

Determination of amount payable pursuant to cancellation:
Accordingly, the amount payable by you and the computation and basis thereof is as follows:
The amounts determined as being payable above are without prejudice to any amount that may be found to be payable you on submission of final return furnished by you.
You are required to pay the following amounts on or before 17/10/2021 failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

Head	Central Tax	State Tax/UT Tax	Integrated Tax	Cess
Tax	0	0	0	0
Interest	0	0	0	0
Penalty	0	0	0	0
Others	0	0	0	0
Total	0.0	0.0	0.0	0.0

Place: Bihar
Date: 07/10/2021

Sudhir Kumar Purvey
Joint Commissioner of State Tax
Shahabad"

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 2018, 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, due to sudden Covid-19 Pandemic and the cause was totally beyond the petitioner's reach.

Hence, for all the aforesaid reasons, the order dated 07/10/2021 passed by the respondent no.3, namely the Joint Commissioner of State Taxes, Shahabad Circle Arrah, District- Bhojpur is quashed with the petitioner's registration restored, with a further direction to the respondent no.2, 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 Standing Counsel-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)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	14.11.2022
Transmission Date	