IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21034 of 2021

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Anil Bricks Udhog through its proprietor Anil Kumar (Male) (aged about 58 years), son of Ramashray Prasad, resident of Ward No. 20, Mela Road, Lohizya Nagar, Bhabdepur, Sitamarhi, Bihar.

... ... Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax, having its office at Vikas Bhawan, Bailey Road, Patna.
2. Addl. Commissioner of State Tax, Tirhut Division (Appeal), Bihar.
3. Joint Commissioner of State Tax, Sitamarhi, Bihar.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Manju Jha
For the Respondent/s : Mr.Vivek Prasad (Gp7)

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

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 04-01-2022

Petitioner has prayed for the following relief(s):

> "i) The order dated 22.01.2019 (as contained in Annexure -2) cancelling e registration under Section 29 of the Bihar Goods and Services Tax Act, 2017 (hereinafter called the Act) be quashed.
>
> ii) The respondent no. 3 be directed to restore registration under Section 22 of the Act to enable filing of return and payment of tax in accordance therewith.
>
> iii) The order dated 22.10.2021 (as contained in

> Annexure -5) passed by the respondent no.2 dismissing the appeal in limine on the solitary ground of delay filing of the appeal be quashed.
>
> iv) For granting any other relief (s) to which the petitioner is otherwise found entitled to."

Vide order dated 22.01.2019, the Joint Commissioner of State Taxes, Sitamarhi 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 22.01.2019 passed by the respondent no.3, namely the Joint Commissioner of State Taxes, Sitamarhi is quashed with the petitioner's registration 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 Vivek Prasad, learned G.P. 7, 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/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.01.2022
Transmission Date	