

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16203 of 2022

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M/s Best Bricks, (A Sole Proprietorship Firm) Having its Registered Office at- Mauga Chandi, KaliyaGanj, P.S.- Belouri, District- Purnea through its sole proprietor Nawal Kishore Yadav @ Nawal Kishor Yadav, S/o Vijay Kumar Yadav.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, having its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi- 110001.
2. Joint Commissioner of State Tax, Purnea Circle, Purnea.
3. Assistant Commissioner of State Tax, Purnea Circle, Purnea.
4. Additional Commissioner of State Tax (Appeal), Purnea Division, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anurag Saurav, Advocate
Mr. Abhinav Alok, Advocate

For the Respondent/s : Mr.Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

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 : 09-12-2022

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

“(i) For Quashing of order dated 19.09.2022 passed by Additional Commissioner, (Appeal), Purnea Division, Purnea whereby and whereunder the appeal of the petitioner was dismissed by respondent No. 4 against the order of cancellation of



Registration, on the ground of limitation that the petitioner has not filed the appeal within the stipulated period of 90 days and there were delay in filing of appeal and apart from that the petitioner had also not filed the certified copy of impugned order before the Appellate Authority.

(ii) For issuance of an appropriate writ/order/direction for setting aside order bearing reference no. ZA101219081927 Dated: 19.12.2019, passed by Joint Commissioner of State Tax jurisdiction, Purnea Circle, Purnea, whereby and whereunder respondent authorities passed an ex parte order dated 19.12.2019 without providing an opportunity of hearing to the petitioner whereby and whereunder respondent authority cancelled the Registration of the petitioner and there is no pending of tax amount against the petitioner.

(iii) For issuance of Writ in the nature of Mandamus directing the respondent authority to restore the GST Registration of the petitioner after revocation of cancellation of registration with immediate effect, as the petitioner is ready to furnish the returns of earlier year within fifteen days from the date of the Order of this Hon'ble Court.

(iv) For issuance of an appropriate writ(s), order(s) and/or direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of this case in the interest of justice.”

Vide order dated 19.12.2019 (Page 18 to the brief),
the Joint Commissioner of State Taxes, Purnea, 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: ZA101219081927D
Date: 30/12/2019

To
NAVAL KISHOR YADAV
MAUGA CHANDI, KALIYAGANJ, BELOURI, Purnea, Bihar-854326
GSTIN/UIN:10ALFPY3018A1ZQ
Application Reference No. (ARN): AA101219019892D
Date: 19/12/2019

Order for Cancellation of Registration

This has reference to your reply dated 29/12/2019 in response to the notice to show cause dated 19/12/2019
Whereas no reply to notice to show cause has been submitted;

The effective date of cancellation of your registration is 30/12/2019

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 09/01/2020 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: 30/12/2019

Nand Kishore Raj
Joint Commissioner of State Tax
Purnea”

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, 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 19.12.2019 passed by the respondent no.2, namely the Joint Commissioner of State Taxes, Purnea Circle, Purnea is quashed with the petitioner's registration restored, with a further



direction to the authority concerned 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 GP-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)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	13.12.2022
Transmission Date	

