

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17194 of 2022

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M/s Shibu Construction Private Limited Mainpura, Danapur, District Patna through its Managing Director Birendra Kumar Singh, Aged about 55 Years, Gender Male, Son of Late Sudama Singh, Resident of New Mainpura, Kharanja Road, Near Saguna More, Danapur, P.S. Danapur, District Patna, Pin Code- 801503.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok 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)

(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 : 16-12-2022

Petitioner has prayed for following relief (s) : -

“(i) For the issuance of consequential writ/order for quashing of the order dated 24.11.2022 issued vide Memo No. 2078 dated 24.11.2022, passed by the Additional Commissioner, State Tax (Appeals), Patna West Division, Patna wherein the Additional Commissioner, State Tax (Appeals), Patna West Division, Patna dismissed the Appeal filed for revocation of cancellation of Registration bearing



Appeal Case No. GST/DN-37/2022-23;

(ii) For the issuance of writ/order for quashing of the ex-parte order dated 10.09.2020 passed by the Joint Commissioner of State Tax, Danapur Circle, District Patna, whereby the Registration of the petitioner under the GST Act, 2017 has been cancelled without giving due concern to the petitioner's contentions;

iii. For the issuance of a direction to the Respondent No. 3 to restore the registration granted under GST Act, 2017 of the petitioner Company as it was cancelled by an ex-parte order;

(iv) For the issuance of a direction to the Respondents for de-freezing/de-attaching of the Bank Account of the petitioner Company;

(v) For the further issuance of a direction restraining the Respondent No. 3 from taking any coercive action for recovery of the amount in demand during the pendency of the instant writ petition;

(vi) For the grant of any relief(s) to which the petitioner is entitled in the facts and circumstances of this case.”

Vide order dated 10.09.2020 (Page 12 to the brief), the Joint Commissioner of State Tax, Danapur Circle, Patna has cancelled the petitioner's registration under the provision of Section 29 of the Bihar Goods and Services Tax Act, 2017. Prior thereto, no notice to show cause was issued to which the petitioner could respond. The order is extracted in toto as under:-

“Reference Number: ZA1009200265408

Date: 10/09/2020

To
SHIBU CONSTRUCTION PRIVATE LIMITED
NEW MAINPURA, KHARANZA ROAD, NEW MAINPURA,



DANAPUR, DANAPUR, Patna, Bihar, 801503
GSTIN/UIN: 10AAKCS245IGIZQ
Application Reference No. (ARN): AA1012190610491
Date: 30/12/2019

Order for Cancellation of Registration

This has reference to your reply dated 20/08/2020 in response to the notice to show cause dated 30/12/2019
Whereas no reply to notice to show cause has been submitted;
Whereas on the day fixed for hearing you did not appear;

The effective date of cancellation of your registration is 10/09/2020
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 20/09/2020 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: 10/09/2020

Sunita Kumari
Joint Commissioner of State Tax
Danapur”

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. After Covid-19 Pandemic, petitioner's firm started work. 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 10/09/2020 passed by the respondent no.3, namely the Joint Commissioner of State Tax, Danapur Circle, Patna 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



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)

KC Jha/chn

AFR/NAFR	
CAV DATE	
Uploading Date	20.12.2022
Transmission Date	

