IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P. (C) No.4892 of 2022

Basanta Kumar Palita .... ***Petitioner***
Mr. Anup Narayan Mohanty, Advocate

-versus-

The Commissioner, CT & GST, Odisha & Another .... ***Opp.Parties***
Mr. Sunil Mishra, Standing Counsel

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER
22.02.2022

Order No.

01. **1.** This matter is taken up by virtual/physical mode.

2. Assailing the Order dated 14.02.2020 cancelling the Registration Certificate bearing No. GSTIN: 21BYAPP8300D2Z0 with effect from 14.02.2020 under the provisions of the Central Goods and Services Tax Act, 2017, the Petitioner has approached this Court invoking writ jurisdiction on the ground that his reply to the Show Cause Notice dated 03.02.2020 for cancellation of registration was not taken care of by the Opposite Party No.2.

3. It appears from the Show Cause Notice dated 03.02.2020 vide Annexure-3 that the Petitioner had not furnished returns for a continuous period of six months and he was directed to file response. The Petitioner submits that on account of ill-health there was default in furnishing returns. However, from the Order dated

14.02.2020 vide Annexure-4, whereby the Opposite Party No.2 has cancelled the registration, it is seen that the Petitioner has not responded to GSTR-3A notice, REG-17 notice and personal hearing.

4. Mr. Sunil Mishra, learned Additional Standing Counsel for the Opposite Parties appearing on advance notice states that delay in filing the revocation application is required to be condoned, and the Petitioner has to comply with statutory requirements by paying tax, interest and penalty with late fee. He further submits that the Petitioner is also required to furnish returns. The counsel for the Petitioner submits that he is agreed to discharge his liability by depositing tax, interest and penalty along with late fee as provided under Rule 23 of the OGST Rules and file returns. The counsel for the Petitioner citing the Order dated 02.12.2021 passed in W.P.(C) No.37451 of 2021 (Debendra Nayak Vrs. The Commissioner, CT & GST, Odisha) by this Court, submits that given a chance he would comply with the statutory requirement and consequently the registration certificate would be revived.

5. We are taken to look into the provisions for revocation of cancellation of registration contained in Section 30. Sub-section (1) thereof reads as follows:

> "(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.
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> (2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

> Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.
> (3) The revocation of cancellation of registration under the Central Goods and Services Tax Act shall be deemed to be a revocation of cancellation of registration under this Act."

6. Sub-rule (1) of Rule 23 of the OGST Rules, 2017 is quoted hereunder so far as is relevant for the present purpose:-

> "(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG- 21, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:
> **Provided that** no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.
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> **Provided further that** all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:
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> **Provided also that** where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration

within a period of thirty days from the date of order of revocation of cancellation of registration.

7. Having conceded by both the parties, the delay in invocation of proviso to sub-rule (1) of Rule 23 of the OGST Rules is condoned. The Petitioner is directed to deposit all the taxes, interest, penalty and late fee as may be due and comply with formalities. Upon such compliance, the Petitioner's application for revocation will be considered in accordance with law. Subject to the Petitioner complying with the above conditions, the department will open the portal to enable the Petitioner to file the GST returns.

8. The writ petition is disposed of with the aforesaid observation and direction.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Aks February 22nd, 2022
Cuttack