**IN THE HIGH COURT OF ORISSA AT CUTTACK**
**W.P. (C) No. 7407 of 2022**

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| ***Sri Manoranjana Panda*** | .... | ***Petitioner*** |
| | | Mr. Subhrajeet Jena, Advocate |

*-versus-*

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| ***The Principal Commissioner, GST (Central Tax) & Central Excise & Another*** | .... | ***Opposite Parties*** |
| | | Mr. Radheshyam Chimanka, Advocate |

**CORAM:**
**JUSTICE JASWANT SINGH**
**JUSTICE M.S. RAMAN**

**ORDER (Oral)**
**06.04.2022**

**Order No.**

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

**2.** Assailing the order dated 14th February, 2020 cancelling the registration being GSTIN/UIN: 21BLDPP8023R2ZQ by the Superintendent of Bhadrak Circle, under the Central Goods and Services Tax Act, 2017 (referred to as "CGST Act") the Petitioner came up before this Court invoking provisions of Article 226 of the Constitution of India and alleged that even though he expressed his willingness to file all periodic returns, the authority has not considered his application for revocation of cancellation of registration.

**3.** The Petitioner is proprietorship concern, namely, M/s. Raghunath Traders failed to furnish returns due to prolonged illness. It is stated by the counsel for the Petitioner that though the

Petitioner responded to the show cause notice, the Opposite Party No.2 failed to appreciate the difficulty faced by the Petitioner.

**4.** It appears from the show cause notice dated 3rd February, 2020 vide Annexure-3 that registration has been cancelled on account of non-furnishing of returns for continuous periods of six months. It appears from order for cancellation of registration vide Annexure-4 that the Superintendent of Bhadrak Circle having regard to reply and submission made by the Petitioner proceeded to cancel the registration by recording the following reason:-

> **"**The assessee did not respond to GSTR-3A notice and REG-17 notice. The PH has been given and no response from assessee. Hence, the registration is liable for cancellation."

**5.** Mr. Radheshyam Chimanka, Senior Standing Counsel appearing for Opposite Parties on advance notice states that the application of revocation has rightly been turned down by the authorities as the Petitioner himself admitted the fact in the writ petition that the same was filed with delay. He further submits that the Petitioner is required to comply with statutory requirements by paying tax, interest and penalty along with late fee. He further submits that the Petitioner is also required to furnish returns.

**6.** The counsel for the Petitioner submitted that the Petitioner is agreed to discharge his liability by depositing tax, interest and penalty along with late fee.

**7.** At this juncture, counsel for the Petitioner citing the decisions of this Court vide order dated 2nd December, 2021 passed in W.P. (C) No. 37451 of 2021 (Debendra Nayak Vrs. The Commissioner, CT & GST, Odisha) and order dated 22nd February, 2022 (Basanta Kumar Palita Vrs. The Commisioner, CT & GST, Odisha) submitted that given a chance the Petitioner would comply with the statutory requirement.

**8.** We are taken to have glance at provisions of Section 30 of the CGST Act which deals with revocation of cancellation of registration. Section 30 is extracted hereunder:-

> **“(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.
>
> **(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.”

9. It is also pertinent to notice sub-rule (1) of Rule 23 which is quoted hereunder:-

> “(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.

**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:

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

Reading of aforesaid provisions leads to indicate that the proper officer has been conferred with power to revoke cancellation of registration. It is also provided that application for revocation of cancellation of registration can be rejected after affording an opportunity to the Petitioner to have his say. It is apparent from the proviso extracted above that the application for revocation in Form GST REG-21 shall have to be made to the proper officer within a period of thirty days from the date of service of the order of cancellation of registration. Proviso to sub-rule(1) of Rule 23 further requires returns to be furnished and amount due as tax in terms of such returns is to be paid along with amount payable towards interest, penalty and late fee in respect of the said returns. On compliance of such statutory requirement, application for revocation can be filed.

11. The counsel for the Petitioner concedes that the Petitioner is agreed to comply with the statutory requirement by depositing all the taxes, interest, penalty and late fee as may be due and comply with the formalities. Having agreed by both the parties, the delay in invocation of provision of sub-rule (1) of Rule 23 of the CGST Rules is condoned. Upon compliance as agreed by the Petitioner, within two weeks of receipt of the copy of this order, the application for revocation shall be considered by the competent authority in accordance with law.

12. Subject to the Petitioner complying with above conditions, the department will take all steps to open the portal to enable the Petitioner to file the returns.

13. 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**

Laxmikant April 6 , 2022

Cuttack