IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6300 of 2023

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Maa Construction through Arbind Singh, aged about 51 years, male, Son of Ranjit Singh, Resident of Village - Madanpur, Post Office - Naraw Chapra, Police Station - Ramavtar Nagar, District - Saran.

... ... Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Finance Department, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax, Saran Division, Chapra (Saran).

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Kumar, Advocate
For the Respondent/s : Mr. Anil Kr. Singh, GP-26

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-04-2023

The petitioner is aggrieved with the order for cancellation of registration dated 01.04.2022. An appeal was filed which was delayed, which also stood rejected. Insofar as the Bihar Goods and Services Tax Act is concerned, now there is no Tribunal constituted for the State.

2. In such circumstances, we have looked at the order dated 01.04.2022, especially since the learned counsel for the petitioner has argued that it is a non-speaking order. We see from the order that there is no reason stated as to why the cancellation was ordered and not even the subject of the notice is referred to in the order.

3. It is the submission of the learned counsel for the State that the form GST REG-19 has been adopted by the Assessing Officer.

4. We extract form GST REG-19:-

Form GST REG-19
[See rule 22(3)]

Reference No. - Date -
To
Name
Address
GSTIN / UIN

Application Reference No. (ARN) Date:

Order for Cancellation of Registration

This has reference to your reply dated ---- in response to the notice to show cause dated -----

☐ Whereas no reply to notice to show cause has been submitted; or
☐ Whereas on the day fixed for hearing you did not appear; or
☐ Whereas the undersigned has examined your reply and submissions made at the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s)

1.
2.

The effective date of cancellation of your registration is <<DD/MM/YYYY >>.

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 ------ (date) 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					
Interest					
Penalty					
Others					
Total					

Place:
Date:

Signature
< Name of the Officer>
Designation
Jurisdiction

5. As we see from the Bihar Goods and Services Taxes Rules, 2017, GST REG-19 has a specific column where reasons have to be assigned. However, the Assessing Officer seems to be laboring under the belief that when an assessee does not appear or an objection is not filed, no reasons have to be assigned.

6. We cannot countenance the said order, especially when there is absolutely no reason stated regarding the cancellation of registration.

7. We also notice the judgment of another Hon'ble Division Bench of this Court passed in *Manoj Kumar Sah versus The State of Bihar and Anr.* in ***C.W.J.C. No. 18307 of 2022,*** wherein it has been stated so:-

> *" 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. "*

8. The impugned order in the instant writ petition also suffers from the very same illegality which has been pointed out by the Division Bench. In such circumstances, we set aside the order dated 01.04.2022 and direct reconsideration of the issue.

9. In this context, we also notice that notification No. 3 of 2023 has been brought in by the Central Government on the recommendations of the G.S.T. Council wherein if the cancellation has been effected for failure to file returns under clause (b) or clause (c) of Sub-section (2) of Section 29, there is a further period allowed up to 30.06.2023, wherein the registered person can apply for revocation of cancellation. This is also subject to the condition that the return should be filed up to the effective date of cancellation of registration and the payment of tax, interest, penalty and late fee in respect of such returns have also been made. The assessee would also be entitled to avail of the said remedy if the cancellation has been effected under clause (b) or clause (c) of Sub-section (2) of Section 29.

10. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

rajkishore/-

AFR/NAFR	N/A
CAV DATE	N/A
Uploading Date	01.05.2023.
Transmission Date	N/A