IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18254 of 2022

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M/s Bijay Kumar Bhagat (A Sole Proprietorship Firm), Having its Registered Office at-Bijay Kumar Bhagat, Station Road, Milanpara, Kashukibadh, P.S.-Kashukibagh, District-Purnea through its Sole Proprietor Mr. Bijay Kumar Bhagat aged about 31 Years (M) S/o Ashok Kumar Bhagat.

... ... Petitioner/s

Versus

1. The State of Bihar through its Commissioner, BGST, New Secretariat, Patna.
2. Joint Commissioner of State Tax, Purnea Circle, Purnea
3. Assistant Commissioner of State Tax, Purnea Circle, Purnea.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Anurag Saurav, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-01-2023

Heard learned counsel for the parties.

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

(i) For Issuance of an appropriate writ/ order/ direction for setting aside order bearing reference no. ZA100422008305E Dated: 05.04.2022, passed by Joint Commissioner of State Tax Jurisdiction, Purnea Circle, Purnea, whereby and where under respondent authorities passed an ex partee order dated 05.04.2022 without providing an opportunity of hearing to the petitioner whereby and where under respondent authority cancelled the Registration of the petitioner and there is no pending of tax amount against the petitioner.

(ii) 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.

(iii) 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 **05.04.2022** (Page 17 to the brief), the Joint Commissioner of State Taxes, Purnea, Bihar, 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: ZA100422008305E**

Date: 05/04/2022

To
BIJAY KUMAR BHAGAT,STATION ROAD, MILANPARA KHUSHKIBAGH, Purnea, Bihar, 854305
GSTIN/UIN:10AWNPB8791J1ZA
Application Reference No. (ARN): AA100322039995D

Date: 26/03/2022

Order for Cancellation of Registration

This has reference to your reply dated 05/04/2022 in response to the notice to show cause dated 26/03/2022
Whereas no reply to notice to show cause has been submitted;

The effective date of cancellation of your registration is 05/04/2022

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 15/04/2022 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: 05/04/2022

Shankar Sharma
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 2018, 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 **05.04.2022 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 **respondent no.1, namely Commissioner, BGST, New Secretariat, 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 return 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)

ranjan/sanjay-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA