IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18301 of 2022

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M/s Surya Enterprises, a Proprietorship Firm having its previous Office at Anupam Jyoti Colony, Bahadurpur Housing Colony, Patna - 800026 presently situated at Manorma Bhavan, Sanjay Gandhi Nagar, Kankarbagh, Patna - 800020 through its Proprietor Savai Ram Dewasi, Male, aged about thirty two year son of Kishana Ram Resident of Opposite Shristi Hospital, P.S. and Post Kankarbag Patna Permanent Resident of Dewasiyo Ki Dhani, Malpuriya, P.O. Birol, P.S. Jaitaran, District - Pali, Rajasthan 306302. through its Authorized Manager Mr. Puran Singh, Male, Aged about 35 years Son of Gulab Singh, Ravali Gali, Jakhora, P.O. and P.S. - Koilwara, District - Pali, Rajasthan - 306902.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Taxes (Appeal), Patna West Division, Patna.
4. The Joint Commissioner of State Taxes, Patna South Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Keshri, Advocate Mr. Alok Kumar Agrawal, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7

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

Date : 10-01-2023

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

(i) For quashing the Memo No. 1646 dt. 03.09.2022 passed by the Respondent Additional Commissioner, State Taxes (Appeal), Patna West

Division, Patna whereby the Appeal bearing No GST /PS-59 /22-23 has been dismissed at the Admission stage itself on the ground of delay without considering the same on merit

(ii) For quashing the order dt. 15.02.2022 issued vide Reference No. ZA100222032217F passed by the Joint Commissioner of State Taxes, Patna South Circle, Patna whereby the GST Registration of the Petitioner bearing GSTIN/UIN: 10DCGPS7476K1Z4 was cancelled without assigning any reasons thereof and without giving any proper opportunity for filing reply and personal hearing

(iii) For direction upon Respondent No. 4 to revoke the order of cancellation of GST Registration of the Petitioner in order to enable the petitioner to file its return and to amend the place of business as the business was closed due to serious illness of the petitioner due to COVID-19 and to grant such other relief(s) to which the Petitioner is entitled in the facts and circumstances of the case.

Vide order dated 15.02.2022 (Page 20 to the brief), the Joint Commissioner of State Taxes, Patna South, 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: ZA100222032217F**

Date: 15/02/2022

To
SAVAI RAM DEWASI
A/7 ANUPAM JOYATI COLONY, PRAMOD THAKUR,
S/O YOGENDRA THAKUR, ANUPAM JYOTI COLONY, BADADURPUR HOUSING, Patna, Bihar, 800026
GSTIN/UIN:10DCGPS7476K1Z4

Application Reference No. (ARN): AA100222001550F
Date: 001/02/2022

Order for Cancellation of Registration

This has reference to your reply dated 11/02/2022 in response to the notice to show cause dated 01/02/2022

Whereas no reply to notice to show cause has been submitted;

The effective date of cancellation of your registration is 01/02/2022

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 25/02/2022 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: 15/02/2022

Ashok Chand Srivastava
Joint Commissioner of State Tax
Patna South”

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 and since then petitioner has been regularly filing its return and depositing all dues. Unfortunately, information of the returns for certain period not being uploaded, due to illness of Covid-19 Pandemic and the cause was totally beyond the petitioner's reach.

Hence, for all the aforesaid reasons, order dated 03.09.2022 (Page 21 of the brief) passed by the Respondent No. 3 namely the Additional Commissioner of State Taxes (Appeal), Patna West Division, Patna and order dated 15.02.2022 (Page 20 to the brief) passed by the Respondent No. 4, namely, the Joint Commissioner of State Taxes, Patna South are quashed and set aside with the petitioner's registration restored. The matter is remanded to the Respondent No. 4, namely, the Joint Commissioner of State Taxes, Patna South Circle, Patna for consideration afresh.

We reiterate that issue of delay in filing the returns shall remain closed and not raised again as is stated by Sri Vivek Prasad, learned GP-7, 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)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	