IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3872 of 2024

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M/s Ali Infra having GSTIN- 10AVDPA9050E1ZC its office at H/o Richa Pathak, Diwan Mohalla, Hama Near Shiv Mandir, Post- Jhauganj, P.S.- Khajekalan, Patna- 800008, Bihar through its Proprietor Wahid Ali (Male, aged about 36 years) Son of Md. Shakil Ansari, resident of ward No.- 4, Village- Dhangaraha, Post- Dhangaraha, P.S.- Baniyapur, District- Saran (Chhapra)- 841403.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. The Principal Secratary Cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Taxes (Appeal), Patna East Division, Patna, Government of Bihar.
4. The Joint Commissioner of State Taxes, Patna City (West) Circle, Patna Government of Bihar, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Bijay Kumar Gupta, Adv.
For the Respondent/s : Mr. Government Pleader (7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 16-05-2024 The petitioner's registration was canceled as per the order dated 22.06.2023 which is produced as Annexure-P2. The cancellation was also effected after Annexure-P1 notice was issued.

2. The petitioner filed an application for revocation of cancellation of registration under Section 30 of the Central Goods and Services Tax Act, 2017 (*For brevity* the

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CGST Act). The same was filed beyond the limitation period of one month but the limitation was condoned as per the proviso to Section 30 of the CGST Act which permitted such condonation of delay. Annexure-P3 order condoned the delay but Annexure-P4 refused to revoke the cancellation.

3. A question arose as to whether, the proviso was applicable since it was omitted by the Finance Act, 2023 (No. 8 of 2023). We are informed that the Act of 8 of 2023 was notified on 31.07.2023 but, omission of the proviso with effect from 01.10.2023. The delay condonation was effected by Annexure-P3 dated 04.08.2023 prior to the date on which the omission was given effect. Hence, the delay condonation was proper.

4. An appeal was filed from Annexure-P4 order which rejected the application for revocation of cancellation of registration. The first appellate authority rejected it on the ground of delay. The delay alleged is by computing the period from the date of the original order of cancellation, which is 22.06.2023. We have seen from the appeal memorandum that what has been challenged is the order dated 18.09.2023 which was passed by the Joint Commissioner, Sales Tax, Patna City West Circle which is

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Annexure-P4, rejection of revocation of cancellation.

5. In such circumstances, the appeal has to be treated to be on time computing the period from 18.09.2023 Annexure-P4, which is the impugned order in the appeal.

6. In the aforesaid circumstances, we set aside the appellate order dated 20.12.2023 (Annexure-P5) and resurrect the appeal to the files of the appellate authority. The appellate authority shall consider the same on merits after affording an opportunity of hearing to the petitioner. Accordingly, the writ petition stands allowed.

7. We make it clear that we have not made any observation on the merits of cancellation or its revocation.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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