IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4395 of 2024

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M/s. Simran Interior and Exterior Designer having its office at Road No. 9, Rajeev Nagar, PS - Rajeev Nagar District - Patna, Bihar, through its Proprietor, Rahul Dev, aged about 36 years (M), Son of Ashok Kumar Jha, Resident of Biharganj, PS- Bihariganj, District-Madhepura, State - Bihar

... ... Petitioner/s

Versus

1. The Union of India Through the Secretary Department of Revenue, Ministry of Finance, North Block, New Delhi-110001.
2. The Secretary Department of Revenue, Ministry of Finance, North Block, New Delhi-110001.
3. The State of Bihar through the Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
4. The Commissioner cum Secretary, Commercial Taxes Department, Govt. of Bihar, Patna.
5. The Commissioner of Central GST, Patna, Bihar
6. The Additional Commissioner of Central GST (Appeals), Patna, Bihar.
7. The Superintendent, Central GST, Danapur Range, Division Patna West, Bihar.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Madan Kumar, Advocate
For the Respondent/s : Dr. K. N. Singh, Additional Solicitor General
Mr. Anshuman Singh, CGST & CX
Mr. Shivaditya Dhari Sinha, AC to ASG
Mr. Devansh Shankar Singh, AC to ASG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-03-2024

The petitioner is aggrieved with the cancellation of registration issued on 11.07.2022 for non-compliance of the statutory provision which requires filing of returns on the due date. Such default averred for a continuous period of six months, led to the cancellation of registration.

2. The petitioner's registration, as per Annexure-P1 was threatened to be cancelled because returns were not filed for a continuous period of 6 months. The petitioner filed a reply but, however, the fact of non-filing of returns stood established. Even in the present writ petition there is no denial of the specific default pointed out.

3. Later, the Central Board of Indirect Taxes and Customs brought out Annexure-P/3 notification on 31.03.2023. The same provided an escape valve for revocation of cancellation of registration, to be filed up to 30.06.2023, which was later extended to 31.08.2023. The notifications are produced along with Annexure-P/3. According to the petitioner's counsel, the petitioner filed an application for revocation of cancellation after filing the returns and paying the amounts but, a notice was issued at Annexure-P/4 dated 11.07.2023 asking the petitioner to pay an amount of Rs.5817/- as interest due. The petitioner's contention is that he was given only 3 days time to make up the payment while Rule 23 of the Bihar Goods and Services Tax Rules provides for seven days time.

4. We have to specifically notice that the

application for revocation of cancellation was under a notification issued at Annexure-P/3 series. The specific contention upon which a revocation can be applied for is available in clause (b) of the said notification, which is extracted herein below:-

> *(b) the application for revocation shall be filed only after furnishing the returns due upto effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns.*

Hence, it is incumbent upon the petitioner to furnish the returns due, till the effective date of cancellation of registration and pay up the amounts due as tax in terms of returns along with any amounts payable towards interest, penalty and late fee in respect of such returns before the application for revocation is filed. It was incumbent upon the petitioner to compute the tax paid along with the interest and make the payments as also file the returns before an application of cancellation of registration is filed. In fact, the respondent-authority was very indulgent in giving 3 days time to pay up an amount of Rs.5817/- when under a relaxed notification, the Government requires the application to be filed based on such conditions, which conditions have to be followed scrupulously failing which the benefit would not be available. Rule 23 provides for seven days notice to show cause if a person’s registration is found liable to be cancelled under Rule 29. Here, the benefit conferred on the person is to apply for revocation of cancellation, hedged in with specific conditions. There can be no contention taken that there should have been seven days time given since the notification itself provided for the payment before the application for revocation of cancellation is submitted.

5. We find absolutely no reason to entertain the writ petition and the same stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	14.03.2024
Transmission Date	