IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12959 of 2024

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M/s Utkrisht Logistics, GSTIN, 10AZDPS6498L1ZT its office at Gulmohar Park, F-45, H/o- Amit Kumar, P.C Colony, Kankar Bagh Road, Kankarbgh, Post- Lohiya Nagar, P.S. Kankarbagh, Patna- 800020, Bihar through its Proprietor Shaligram Singh,(M), Son of Sri Ram Vilas Singh aged about 53 years, resident of F-99, F-Sector, P.C. Colony, Kankarbagh, Post- Lohiya Nagar, P.S. Kankarbagh, District- Patna- 800020

... ... Petitioner/s

Versus

1. State of Bihar through The Principal Secretary, State Tax, Bihar, Patna having its office at Kar Bhawan, Patna.
2. The Principal Secretary Cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Joint Commissioner of State Taxes, Patna South-1, Patna West, Government of Bihar, Patna.
4. The Additional Commissioner of State Taxes, Patna South- 1, Patna West, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bijay Kumar Gupta, Advocate
For the Respondent/s	:	Mr.Standing Counsel (11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 17-09-2024 The petitioner is aggrieved with Annexure- P/6 order which refused to cancel the order of revocation for reason of all pending returns having not been filed. The order of cancellation is at Annexure- P/2, which is dated 29.01.2024 and the effective date of cancellation was as on 01.04.2023; a retrospective date.

2. Specific reference is made by the learned Counsel for the petitioner to Rule 23 of the Central Goods and Services Tax Rules, 2017 (for brevity, CGST Rules) which delineates a

procedure for revocation of cancellation, as is provided under Section 30 of the CGST Act.

3. The second proviso to Rule 23 mandates that no application for revocation shall be filed unless the registered person has furnished the returns; the failure to furnish which, had led to the cancellation. The third proviso also requires the registered person to file the returns from the date of order of cancellation to the date of order of revocation; once the revocation is made under Section 30 of the CGST Act.

4. Since the petitioner's registration has been cancelled with retrospective effect from 01.04.2023, what is applicable to the petitioner is the fourth proviso to Rule 23 which is extracted here under.

> *"Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration with a period of thirty days from the date of order of revocation of cancellation of registration."*

5. As per the above proviso, when retrospective effect is given to the cancellation order; on a revocation application being filed, the registered person would be obliged to file the returns relating to the period from the effective date of

cancellation of registration, till the date of order of revocation of cancellation of registration, only within a period of thirty days from the date of order of revocation of cancellation of registration.

6. In such circumstances, Annexure- P/6 is set aside and the Assessing Officer is directed to revoke the cancellation and give the petitioner, the time provided under the fourth proviso to Rule 23 for filing the returns.

7. If the petitioner does not file the returns from 1.4.2023 to the date of revocation, within 30 days of the revocation, then the cancellation would stand sustained.

8. We make it clear that on the revocation being cancelled, necessarily, the portal of the petitioner has to be opened, so as to facilitate filing returns within the time provided.

9. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

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