IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18083 of 2024

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M/s. Nikky Enterprises having its office at Priydarsini Nagar, Jay Nagar, DPS More, Baily Road, Rupaspur, Patna, Bihar - 801503 through its Authorized Representative Nitesh Ranjan (Male), Aged About 40 Years, S/o Om Prakash Singh, Residing at 27, Karorichak P.S - Phulwari, District - Patna, Bihar-801505.

... ... Petitioner.

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-110 001.
3. The Principal Commissioner, Central GST and Central Excise, Patna-I, Patna, Bihar.
4. The Additional Commissioner (Appeal), Office of the Commissioner (Appeal) of Customs, CGST and CX, 2nd Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna, Bihar.
5. The Deputy/Assistant Commissioner, CGST and CX West Division, Patna, Bihar.
6. The Superintendent, CGST and CX Danapur Range, West Division, Patna, Bihar.
7. The State of Bihar through its Commissioner-Cum- Secretary, Department of State Taxes, Government of Bihar, Patna.
8. The Commissioner-Cum-Secretary, Department of State Taxes, Government of Bihar, Patna.

... ... Respondents.

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Appearance :

For the Petitioner	:	Mr. Amarjeet, Advocate. Mr. Prabhat Kumar Singh, Advocate. Mr. Vijay Singh, Advocate. Mr. Shashank Shekhar Kunwar, Advocate.
For the UOI	:	Mr. Anshuman Singh, Sr. SC, CGST & CX.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 25-07-2025

In the instant writ petition, the petitioner has prayed for the following relief(s):

"(i) For issuance of an appropriate writ(s), order(s) or direction(s) quashing/setting aside the Order-in-Appeal dated 22.08.2024 bearing Case No.150/PAT/GST/APPEAL/2024-25 and also order in FORM GST APL-04 (Reference No.ZD100924001077W) dated 03.09.2024, passed by Respondent No.4 (Annexure-P/4 series) whereby and whereunder the Appeal filed by the petitioner has been rejected on the grounds of limitation;

(ii) For issuance of an appropriate writ(s), order(s) or direction(s) quashing/setting aside the ex parte order for Cancellation of GST Registration dated 12.09.2022 via order Reference No.ZA100922023729N (Annexure-P/2) passed by Respondent No.6 whereby and whereunder the GST Registration has been Cancelled suo-moto on account of GST Returns not filed for a continuous period of six months;

(iii) For issuance of an appropriate writ(s), order(s) or direction(s) quashing/setting aside the Show Cause Notice for Cancellation of Registration issued in Form GST REG-31 dated 11.08.2022 via SCN No.ZA100822022919N (Annexure-P/1) passed by Respondent No.6 under Rule 22(1) of CGST Rule, 2017 whereby and whereunder the Notice for GST Registration has been Cancelled suo-motu on account of GST Returns not filed for a continuous period of six months;

(iv) For issuance of an appropriate writ(s), order(s) or direction(s) to the Respondents for revocation of the cancellation of registration of the petitioner and to accept the belated Returns in Form GSTR-3B for the period in question and to allow him to deposit the admitted tax in installments after receiving the outstanding amounts from the clients;

(v) In the alternative and without prejudice to the rights of the petitioner, for issuance of an appropriate writ(s), order(s), or direction(s), to the respondents to consider the application for fresh GST registration and for grant of such liberty to the petitioner to file application for fresh GST registration; and

(vi) For passing any such other order/orders as this Hon'ble Court may deem fit and proper on the facts and in the circumstances of the case."

2. On 10.07.2025, we had passed the following order:

"If there is no cooperation on behalf of the respondent, matter would be decided on the score that there is non compliance of Section 169 of CGST Act.

2. List this matter on 24.07.2025."

3. It is necessary to reproduce the Order for Cancellation of Registration dated 12.09.2022 and it reads as under:

"FORM GST REG-19

[See Rule 22(3)]

Reference Number: ZA 100922023729N Date: 12/09/2022

To
NITESH RANJAN
PRIYDARSINI NAGAR, JAY NAGAR, DPS MORE, DPS MORE, BAILY ROAD, RUPASPUR, Patna, Bihar, 801503
GSTIN/UIN:10AMNPR4118H1Z6

Application Reference No. (ARN): AA100822016093W Dated: 11/08/2022

Order for Cancellation of Registration

This has reference to your reply dated 11/09/2022 in response to the notice to show cause dated 11/08/2022

Whereas the undersigned has examined your reply and submissions made at the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s).

1. The assessee did not complied with SCN issued or update their GST Returns till date. Therefore, the instant GSTIN is hereby cancelled under the provisions of Section 29 of CGST Act, 2017.

The effective date of cancellation of your registration is 10/09/2022

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 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: DANAPUR RANGE
Date: 12/09/2022

Dina Nath Prasad
Superintendent
Danapur"

4. The petitioner had submitted his reply to the show cause notice on 11.09.2022. There is no iota of consideration of single issue as is evident from the aforementioned order for cancellation of registration. Order for cancellation of registration has been passed under statutory provision and it is a quasi judicial function. Therefore, it would go to the root of the matter that the petitioner's contention has not been considered while passing order for cancellation of registration.

5. The respondents contended that there is a belated filing of appeal against the order for cancellation of registration. On that count, the Appellate Authority had dismissed and the matter is covered by a Coordinate Bench decision **dated 20.04.2023** in the case of **M/s Vishwanath Traders Versus The Union of India and others (C.W.J.C. No.82 of 2023)** and it is stated that the Coordinate Bench decision dated **20.04.2023** in the case of **M/s Vishwanath Traders Versus The Union of India and others (C.W.J.C. No.82 of 2023)** has been affirmed by the Hon’ble Supreme Court.

6. Heard the learned counsel for the respective parties.

7. Facts are not disputed insofar as issuance of show cause notice, filing of reply by the petitioner on 11.09.2022, order for cancellation of registration on 12.09.2022 followed by memorandum of appeal and its rejection on the question of delay.

8. It is to be noted that the order for cancellation of registration which has been extracted supra would reveal that there is a total non-application of mind by the quasi judicial authority who has exercised statutory provision while cancelling order for cancellation of registration. In other words, the very object of issuance of show cause notice and receipt of explanation/reply and its non-consideration would defeat the right of the petitioner and would go to the root of the matter. The Hon’ble Supreme Court in the case of **ORYX Fisheries Private Limited Versus Union of India and others,** reported in **(2010) 13 Supreme Court Cases 427,** in paragraph-40 has held as under:

> “**40.** In Kranti Associates [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] this Court after considering various judgments formulated

certain principles in SCC para 47 of the judgment which are set out below : (SCC pp. 510-12)

"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*(1987) 100 Harv. L. Rev. 731-37.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] , EHRR at p. 562, para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 : 2001 ICR 847 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

> (o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'."

In the light of the principles laid down by the Hon'ble Supreme Court in the case of **ORYX Fisheries Private Limited (cited supra)**, it is crystal clear that the order for cancellation of registration dated 12.09.2022 is not a speaking order so as to prefer the effective Appeal. In the light of these initial defects, the citation cited on behalf of the respondents that the present matter is covered by the Coordinate Bench decision in the case of **M/s Vishwanath Traders** (supra) has no application. Accordingly, the petitioner has made out a case so as to interfere with the impugned orders dated 22.08.2024 and 03.09.2024 (Annexure-P/4 series), dated 12.09.2022 (Annexure-P/2) and dated 11.08.2022 (Annexure-P/1). They are set aside. The matter is remanded to the Superintendent, Danapur, who is author of Order for Cancellation of Registration dated 12.09.2022 to proceed afresh after due consideration of each of the contention raised by the petitioner in his reply dated 11.09.2022 against the show cause notice dated 11.08.2022 and complete the proceedings within a period of three months from the date of receipt of this order. The petitioner shall cooperate with the official respondents to conclude the proceedings.

9. With the above observation(s), instant writ petition stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2025.
Transmission Date	NA