IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18454 of 2024

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Ex Servicemen Welfare Association, Albert Ekka Smark Bhawan Amarnath Bhawan, Adalatganj Patna 800001through its Administrative Secretary, Dhruv Singh. ... ... Petitioner

Versus

1. The State of Bihar
2. The Additional Commissioner of State Tax, Patna West, Patna Bihar.
3. The Joint Commissioner of State Tax, Patna West, Patna, Bihar.

... ... Respondents

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Appearance :
For the Petitioner : Mr. Ram Jiban Pd. Singh, Advocate
For the Respondents : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 17-11-2025

Heard learned counsel for the petitioner and learned SC-11 for the State of Bihar.

2. The petitioner in the present case is seeking the following reliefs:-

> "i. To issue a writ in the nature of certiorari or any other appropriate writ/s, order/s, direction/s for quashing the order for cancellation of Registration dt. 31/01/2023 passed in Application Reference No. AA101122037B by the Resp. the Joint Commissioner of State Tax by which registration of GSTIN/UIN : 10AAAAE1964C1Z1 was cancelled and the order passed in Appellate Case No. GST/PTW-16 / 23-24 by the Resp. the Additional Commissioner of State Tax, (Appeal) issued through Memo. No. 281 dated 24.04.2024 by which and

thereunder rejected the appeal filed by the petitioner challenging the order for cancellation of Registration dt. 31/01/2023.

ii. To issue writ in the nature of Mandamus or any other appropriate writ/ writs directing the respondents to restore GSTIN/UIN : 10 AAAAE1964C1Z1 and allow to the petitioner to use the GST number in future for its functioning for the welfare of ex service men of the Army and their wards.

And/ or

Issue such other writ/ writs, direction/ directions or pass such other order/ orders for any other reliefs which Your Lordships may deem just and proper in the facts and circumstances of the case."

3. Learned counsel for the petitioner submits that the petitioner is an association of Ex-Army men which has constituted a body for raising the issues for the welfare of the retired army personnel. It is a registered organisation under the Society Registration Act and is functioning on no profit no loss basis. The petitioner was given a provisional registration under the Goods and Services Tax Act and the petitioner was submitting its GST return every year from the year 2017 but in the year 2022, the Administrative Secretary of the petitioner suffered from prolonged illness weakness so he could not submit the return for the financial year 2022-23. Due to failure of the submission of the return, Joint

Commissioner cancelled the registration by order of cancellation dated 31.01.2023 (Annexure 'P/1').

4. Learned counsel further submits that from the order of cancellation, it would appear that a show-cause notice is said to have been issued to the petitioner but according to him, the show cause notice was not received by the petitioner, so, the petitioner could not file a reply. It is submitted that in this manner, no appropriate opportunity of hearing was given to the petitioner prior to cancellation of the registration.

5. Learned counsel further submits that from the impugned order itself it would appear that there is no tax liability against the petitioner as the petitioner is not a profit earning association. It is the case of the petitioner that when the petitioner came to know about the cancellation order, he filed an appeal against the order of cancellation but with a delay of fifteen months. The Additional Commissioner dismissed the appeal *vide* order contained in Memo No. 281 dated 24.04.2024 on the ground of limitation.

6. Learned counsel for the petitioner submits that at the time of filing of the writ application, the GST Appellate Tribunal was not constituted but now, the Tribunal has been constituted and filing of appeal under Section 112 of the Bihar Goods and Services Act, 2017 is taking place.

7. It is, thus, submitted that in case this Court does not agree with his submissions, the petitioner may be allowed to withdraw the writ application with liberty to file an appeal before the GST Appellate Tribunal.

8. Mr. Vikash Kumar, learned SC-11 for the State has, however, submitted that in this case, the Appellate Authority has rightly dismissed the appeal on the ground of limitation. Referring to the supplementary counter affidavit filed on behalf of the State, learned counsel submits that the competent authority has now provided information that the SMS and E-mail were sent on 09.11.2022 to the taxpayer i.e. on the date of issuance of show cause. It is also submitted that the documents supplied by the GSTN, Delhi would disclose that the second set of SMS and E-mail was sent on 31.01.2023 i.e. on the date of cancellation of registration of the taxpayer. It is submitted that the solitary plea taken by the petitioner in the writ application is that the show cause notice was not received by the petitioner, however, the said statement is not correct on the face of the documentary proof supplied by GSTN, Delhi. Learned counsel has referred to the photocopies of trails of SMS and E-mail sent to the taxpayer which has been enclosed as Annexure 'R2/3 Series' to the supplementary counter affidavit.

9. In course of hearing of the writ application, Mr. Ram Jiban Pd. Singh, learned counsel for the petitioner has tried to raise a submission that the delay in filing of the appeal took place because the copy of the impugned order of cancellation of registration was not served upon the petitioner. We have, however, noticed from the averments made in the writ application that no such plea has been taken by the petitioner in the writ petition.

10. It appears to this Court that the appeal has been dismissed as it was barred by limitation and there was a delay of fifteen months. We find no reason to interfere with the impugned orders. A plea which was not taken before the Appellate Authority cannot be allowed to be agitated by way of oral submission in this Court at this stage.

11. This writ application is, therefore, dismissed.

12. We, however, make it clear that the dismissal of the writ application shall not come in the way of the petitioner in seeking any other statutory remedy including remedy of appeal before the GST Appellate Tribunal or from taking any other steps for making fresh application for registration.

(Rajeev Ranjan Prasad, J)

(Jitendra Kumar, J)

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CAV DATE	
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