IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1857 of 2026

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M/S Prakash Kumar having GSTIN-10BFCPK7279B1ZU a proprietor concern having its office at- Tara Sales, Mohalla- Brahmpura, Police Station- Mithanpura, District- Muzaffarpur, Bihar, 842003 through its proprietor Prakash Kumar, Gender- Male, aged about 38 years, son of Sri Birendra Thakur, Resident of Mohalla- Brahmpura, Near Tara Sales, M.I.T. Police Station- Mithanpura, Muzaffarpur, Bihar - 842003.

... ... Petitioner/s

Versus

1. The 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. Joint Commissioner of State Tax, Muzaffarpur West- 2 Circle, Muzaffarpur, Government of Bihar.
4. Additional Commissioner of State Tax, Muzaffarpur West-2 Circle, Muzaffarpur, Government of Bihar.
5. The Additional Commissioner of State Taxes (Appeal), Tirhut Division, Muzaffarpur, Government of Bihar, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Manish Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP-7
Mr. Pratiyush Kumar, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 11-05-2026 Heard learned counsel for petitioner and the State.

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

> "(i) The Appellate Authority issued APL-02 dated 20.06.2025 (as contained in Annexure-P5A) without passing any order in violation of Sec 107(11) & (12) of the BGST/CGST Act, 2017 by

Respondent No-5 without grant of adequate opportunity of being heard in violation of Principles of Natural Justice be quashed.

(ii) The Show Cause Notice for Cancellation of GST Registration dated 08.07.2024 (as contained in Annexure-P1) issued by the Respondent No.-3 for Cancellation of GST Registration without providing proper opportunity of personal hearing be quashed.

(iii) The Ex parte order For Cancellation of GST Registration dated 08.08.2024 (as contained in Annexure P2) passed by the Respondent No-3 cancelling GST registration of the Petitioner by non-speaking order stating "This has reference to your show cause notice issued dated 08.07.2024. Whereas no reply to notice to show cause has been submitted and whereas the undersigned based on record available with this office is of the opinion that your registration is liable to be cancelled for following reasons(s) 1. Others. The effective date of cancellation of your registration is 08.08.2024" and without providing proper opportunity of personal hearing in violation of Principles of Natural Justice be quashed.

(iv) For directing the Respondents to restore the GST Registration of the Petitioner with immediate effects as the Petitioner has already filed GST returns properly up to August, 2024 and appropriate taxes had also been paid along with late fee and for the remaining period from September, 2024 onwards, Petitioner was not able to upload monthly returns as the GST portal is not allowing filing of return further due to cancellation of his GST

> Registration w.e.f 08.08.2024.
>
> (v) For directing the Respondents alternatively to allow delayed filing of application for revocation of cancelled registration which could be condoned subject to payment of tax, interest, penalty and late fee.
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> (vi) For granting any other relief (s) to which the Petitioner is otherwise found entitled to in accordance with law."

3. Learned counsel for the petitioner submits that the petitioner is a registered firm under the GST Act, 2017. It is working as a works contractor and is a regular taxpayer having his principal place of business at Tara Sales, Mohalla-Brahampura, Police Station-Mithanpura, District-Muzaffarpur.

4. It is the case of the petitioner that he was served with a show cause notice dated 08.07.2024 (Annexure-P/1) alleging non-furnishing of return for a continuous period of six months. He was directed to furnish reply before the competent authority within 30 days from the date of service of the notice. It is submitted that the show cause notice itself was defective as even before the date for expiry of the time to file response, the date of personal hearing was fixed on 05.08.2024.

5. Learned counsel submits that the petitioner was given time till 07.08.2024 to file a response. Immediately on the next day i.e. 08.08.2024, the competent authority uploaded the

order for cancellation of the petitioner's GST registration. The order dated 08.08.2024 (Annexure-P2) is a non-speaking order inasmuch as it would appear on perusal thereof that the reason provided thereunder is non-compliance with Section 29(2)(c) showing as if the petitioner had failed to furnish returns for prescribed periods.

6. Learned counsel further submits that the petitioner thereafter filed an application for revocation of the cancellation of registration on 30.01.2025 which was, though, delayed but was within the condonable period. The respondent no.4 issued show cause notice dated 11.03.2025 and directed the petitioner to furnish a reply to the notice within 7 working days from the date of service of notice which was itself defective. Learned counsel submits that once again the respondent no.4 hastly rejected the rectification application of the petitioner vide order in Form GST REG-05 dated 28.03.2025 (Annexure-P4). He has not applied his judicious mind to the rectification application. The order, as contained in Annexure-P4, is again a non-speaking order.

7. Learned counsel further submits that the petitioner preferred an appeal under Section 107 of the CGST/BGST Act, 2017 for setting aside the order dated 08.08.2024 but the appeal

has been rejected on the ground of being barred by limitation. Submission is that once the rectification application of the petitioner was filed and it was well within the condonable period, the competent authority was required to consider the same on its own merit. Reliance has been placed upon the judgment of the **Hon'ble Rajasthan High Court** in **M/s Kirti Engineering and Traders Vs. Union of India in DB Civil Writ Petition No.4586 of 2023**; judgment of the **Hon'ble Bombay High Court (Aurangabad Bench)** passed in **W.P. No.11833 of 2022 dated 16.02.2023 (Rohit Enterprises Vs. Commissioner, Aurangabad and others)** as also the judgment of this Court in **CWJC No.12793 of 2022 (M/s Eagle Service Vs. The State of Bihar & Others)**. In all these judgments, the Hon'ble High Courts have held that the petitioner cannot be deprived of his right to continue with the trade and commerce by cancelling registration without giving appropriate opportunity of hearing to the petitioner.

8. Learned counsel for the State submits that the petitioner had received the show cause notice (Annexure-P1) but had failed to submit his response. In such circumstance, it cannot be said that no opportunity of hearing has been given to the petitioner. It is further submitted that the rectification

application was filed on 30.01.2025 which was beyond a period of three months, still the competent authority issued a show cause notice dated 11.03.2025 (Annexure-P3A) calling upon the petitioner to pay all the pending liabilities and furnish a response to the notice within 7 working days from the date of service of the notice. Since the petitioner did not respond to Annexure-P3A, the order of rejection of an application for revocation of cancellation (Annexure-P4) has been issued.

9. It is also submitted that the appellate authority has rightly refused to entertain the appeal as it was filed after the prescribed period of cancellation and even the extension could not have been allowed beyond a period of one month.

10. Having regard to the submissions noted hereinabove and keeping in view the judicial pronouncements on the subject when we looked into the facts of the present case, it is found that in this case the show cause notice (Annexure-P1) was issued on 08.07.2024. The 30 days period for filing response to the said notice would expire on 07.08.2024. Learned counsel for the petitioner is correct in saying that even before the expiry of the date for filing the written submissions/show cause the date of personal hearing was fixed. We have noticed that on the very next day i.e. 08.08.2024 the impugned order

(Annexure-P2) has been passed. This seems to be an act done in haste. Giving an opportunity of hearing is one thing but giving appropriate/adequate opportunity of hearing is another thing. The competent authority seems to have acted in haste while passing the impugned order (Annexure-P2) on the very next day of the expiry of 30 days period. In all fairness, equity and justice the competent authority would have given another date to the petitioner to submit his show cause. An act done in haste does not inspire confidence of this Court.

11. We, therefore, set aside the impugned order (Annexure-P2). As a consequence of setting aside of Annexure-P2, the order, as contained in Annexure-P1, shall stand revived. The petitioner must file his response before the competent authority within a period of 30 days from today, whereafter the competent authority shall fix a date of hearing. On the date of hearing, the petitioner shall appear either himself or through his authorized representative and make his submissions. Thereafter, the competent authority shall pass a reasoned order. All these exercise be completed within a period of four months from today.

12. Learned counsel for the petitioner has submitted, on instruction, that the petitioner is ready to deposit the entire

outstanding amount.

13. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

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