IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3599 of 2026

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Subhash Kumar Sah Son of Ram Parikshan Sah, resident of Village Ward No. 8, Nahas Rupauli, BISFI, Madhubani, Bihar 847222.

... ... Petitioner

Versus

1. Commissioner, CGST and CX having its office at Central Revenue Building (Annexe), Bir Chand Patel Path, Patna-800001.
2. Superintendent, CGST and CX, Madhubani, Bihar.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Sadashiv Tiwari, Advocate
For the CGST & CX	:	Mr. Anshuman Singh, Sr. SC

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3   16-07-2026   Heard learned counsel for the petitioner and learned Senior Standing Counsel for the CGST & CX.

2. This writ application has been preferred seeking the following reliefs:-

> "i) the order dated 13.10.2023 (as contained in Annexure – P3) passed by the respondent no. 2 cancelling registration under Section 29 of the Bihar Goods and Services Tax Act, 2017 (hereinafter called the Act) without service of notice in other modes prescribed in section 169 of the Act; without giving reasons therefor in contravention of the statutory contained in section 29 of the Act read with the relevant Rule 22(3) of the Central Goods and Services Tax Rules, 2017 (hereinafter

called the Rules) and also without passing a speaking order in teeth of the principles of natural justice and also Articles 19 (1) (g) and 21 of the Constitution of India effecting the right to do business and deprivation of right to live be set aside quashed.

ii) the respondent no. 2 be directed to restore registration under Section 22 of the Act to enable filing of return and payment of tax in accordance therewith.

iii) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

3. It is the case of the petitioner that the petitioner is a registered person under the Central Goods and Services Tax/Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST/BGST Act'). He has been allotted a registration number vide registration certificate dated 20.05.2020 as contained in Annexure- 'P-1'.

4. It is stated that the petitioner was served with a show cause notice by respondent no.2 calling upon him to show cause as to why the registration of the petitioner be not cancelled. The notice attributed non-filing of return for the six consecutive tax periods. Copy of the show cause notice has been brought on record as Annexure- 'P-2'.

5. It is stated that in compliance of the notice, the petitioner submitted before the authority that default in such compliance occurred due to the fact of his dependence on his counsel and also due to his own oversight of not viewing the portal. The grievance of the petitioner is that the petitioner did not receive any notice by any other mode other than the web portal of the department. Since the petitioner did not comply to the notice, the respondent no.2 has cancelled the registration of the petitioner. Copy of the order impugned in this writ application is dated 13.10.2023 and enclosed as Annexure- ‘P-3’ to the writ application.

6. Learned counsel submits that on perusal of the show cause notice, it would appear that the notice for cancellation of registration was not issued in accordance with law. The order of cancellation does not mention the reasons for cancellation. It is submitted that the petitioner could not file his return due to precarious financial conditions and was constrained due to ill health and his dependence on his counsel.

7. Reliance has been placed on the judgment of the learned co-ordinate Bench of this Court in the case of **Shree Ram Sales Vs. The State of Bihar in CWJC No. 2768 of 2025** wherein it has been held that mere uploading of the notice on the GST portal would not be a complete compliance with the requirement of Section 169 of the CGST/BGST Act. It is submitted that this Court has taken a progressive view of the matter to ensure that the taxpayer who may be liable to face an adverse order gets notice of the matter and he should be in a position to appear before the competent authority with his response. Copy of the judgment in case of **M/s Medicana Vs. Union of India and Others passed in CWJC No. 203 of 2025** (Annexure- 'P-6) has also been placed before this Court.

8. A counter affidavit has been filed on behalf of the respondents. It is the stand of the respondents that the petitioner had been served in accordance with law. Respondents have relied upon Section 169 of the CGST Act, 2017. It is submitted that as per sub-section (1) of Section 169, any decision, order, summons, notice or other communication under this Act or the rules will be made by way of any of the methods provided under clause (a) to clause (f) under sub-section (1) of Section 169. In this connection, it is further pointed out that one of the modes provided under sub-section (1) is in clause (d), i.e., by making it available on the common portal. It is the stand of the respondents that the notice was placed on the GST portal but the petitioner did not submit any response within the given period.

9. With the writ application, the petitioner has enclosed two judgments of this Court as Annexure- 'P-5' and Annexure- 'P-6' by which this Court has taken a consistent view that notice should have been communicated through registered post under acknowledgment and having regard to the fact that any adverse order would have civil consequence upon the petitioner. Despite the presence of two judgments on record with the writ application, the respondents have not made any statement with regard to the decisions of this Court.

10. In the considered opinion of this Court, the respondents are not showing a *bonafide* approach by merely reiterating the same and one stand which has already been rejected by the learned co-ordinate Bench of this Court and the same has been followed by this Bench as well. The conduct of the respondents are bordering on the face of the contempt. They cannot reiterate the same response half-heartedly by taking the same and one stand which has already been dealt with by this Court in several judgments. Nothing has been placed before this Court to show that the department has taken the judgment of this Court to the Hon'ble Supreme Court. Nothing has been shown to this Court to take a view other than what has already been taken by this Court.

11. This being an admitted position that notice has not been served upon the petitioner either by way of e-mail or registered post drawing his personal attention towards the action initiated by the department, in the considered opinion of this Court, the action of the respondents would fall within the teeth of the judgments as contained in Annexure- 'P-5' and Annexure- 'P-6' respectively. This Court has noticed that the judgment of this Court has given a purposive interpretation in order to ensure that a registered person who is likely to face a civil consequence because of an adverse order against him in the matter of his business which may in turn affect his livelihood, it would be a fair play in action if in addition to giving the notice on the GST portal, the registered person is also served through personal service of notice by way of any one of the other modes prescribed under Section 169 of the CGST/BGST Act, 2017.

12. In result, the impugned order (Annexure- 'P-3') is hereby set aside. The petitioner shall be served with a fresh show cause notice in accordance with law giving him sufficient time to file a response whereafter if the competent authority contemplates passing of an adverse order, he shall give a personal hearing to the petitioner in terms of sub-section (4) of Section 75 of the CGST/BGST Act, 2017. After giving personal hearing, the competent authority shall pass a reasoned order in accordance with law. All the exercises be completed within a period of three months from the date of receipt/production of a copy of this order.

13. In the meantime, the status quo before the date of the passing of the impugned order shall be maintained.

14. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sunil Dutta Mishra, J)

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