# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.4204 of 2025**

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M/S Galaxy Heights (A Partnerhsip Firm) having its Registered Office at- Bhatta Durgabari, Ganguli Para, Bhatta Bazar, Purnea, Bihar- 854301, through its Partner Mr. Abnish Kumar, aged about 42 years, (M) S/o Ashawani Kumar.

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Finance, Department of Revenue, having its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi- 110001.
2. The Commissioner, Central GST and Central Excise, Patna- II.
3. The State of Bihar through Commissioner, BGST, Kar Bhawan, Patna.
4. The Assistant Commissioner, CGST and CX, Purnea Division.
5. The Superintendent, CGST and CX, Purnea Range.
6. The Additional Commissioner (Appeal), Office of the Commissioner (Appeals) of Customs, Central GST and Central Excise, Patna.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Anurag Saurav, Advocate<br>Ms. Sharda Raje Singh, Advocate<br>Mr. Abhishek Kumar, Advocate |
| For the UOI | : | Dr. Krishna Nandan Singh, Sr. Advocate (ASGI)<br>Mr. Anshuman Singh, Sr. Standing counsel GST & CX<br>Mr. Shivaditya Dhari Singh, Advocate |
| For the State | : | Ac to SC 11 |

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**CORAM:HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**
**and**
**HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA**

ORAL ORDER

**(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

5 07-08-2026 Heard learned counsel for the petitioner and learned ASG for the Department of CGST & CX.

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

*"i For Issuance of Writ in the nature of Writ/order/direction for setting aside order*

*dated 14.06.2024 passed by Joint Commissioner Appeal in Appeal Case No. 72/PAT/GST/APPEAL/2024-25, whereby and where under the Appellate authority dismissed the appeal filed by the petitioner on the ground of limitation.*

*ii. For Issuance of an appropriate writ/order/ direction for setting aside order bearing reference no. ZA1010230398028 Dated: 16.10.2023, passed by Superintendent, CGST & CX, Purnea Division, whereby and where under respondent authorities passed an ex-parte order dated 16.10.2023, without providing an opportunity of hearing, Cancelled the GST Registration of the petitioner, Whereas there is no pending tax amount against the petitioner and Impugned Order does not state about the reason for cancellation of Registration and the said order is a non-speaking order passed in cryptic manner.*

*iii. For Issuance of an appropriate writ/order/ direction for setting aside order bearing Reference No. ZA1012331240878 Dated: 26.12.2023, passed by Assistant Commissioner, CGST Purnea, Whereby and Where under Revocation Application of the petitioner was rejected and the said application was rejected without assigning any reason and on the ground that the* *petitioner had not made reply of the notice issued.*

*iv. For Issuance of Writ in the nature of Mandamus directing the respondent authority to restore the GST Registration of the Petitioner after revocation of cancellation of registration with immediate effect, as the petitioner had already furnished the pending returns of previous years and further undertake to filed any Pending Return or make payment of any pending tax, if any, assessed by respondent authority within Fifteen Days from the date of the Order of this Hon'ble Court.*

*v. For issuance of an appropriate Writ(s)/order(s) and/or direction(s), as Your Lordships may deem fit and proper in the facts and circumstances of this case in the interest of justice."*

3. It is the case of the petitioner that after obtaining the Registration under the Bihar Goods and Service Tax Act, 2017 (hereinafter referred to as the 'BGST Act, 2017') vide Annexure-P/1 to the writ application, the petitioner was furnishing the annual as well as monthly return through the Accountant. However, due to his suffering from illness he was unable to manage the affairs of his business for sometime. It is submitted that there was a delay in filing of the quarterly return

i.e., GSTR-3B and GSTR-1, because of his illness and that led to passing of an order of cancellation of the registration of the petitioner. It is submitted that the notice to show cause was uploaded at the web portal of the CGST. It is submitted that since the show cause notice was not sent to the petitioner on E-mail or official address and the consultant of the petitioner could not inform the petitioner within the illness period, the quarterly return as stated above could not be filed in time.

4. It is submitted that in the circumstances an *ex-parte* order has been passed by the respondent authority. No opportunity of hearing was given to the petitioner. The order of cancellation does not contain any reason in the column meant in From GST REG-19.

5. Learned counsel submits that after the petitioner came to know about the cancellation of registration, he furnished the pending returns GSTR3B for the period April to September 2023 and GSTR1 return till the period September, 2023 on 31.10.2023. Copies of the return has been enclosed as Annexure-P-5 series.

6. It is stated that after filing of the GSTR3B and GSTR1 return on 31.10.2023, petitioner filed an application seeking revocation of cancellation of registration under Section

30 of the GST Act. The respondent authority however issued show cause notice for rejection of the application for revocation. The reason for rejection for revocation of cancellation is that the late fee amount was not paid for late filing of GSTR-1. On this ground the revocation application has been rejected.

7. Learned counsel submits that the petitioner had filed the return within 15 days from the date of passing of the cancellation of registration order but later on the petitioner has deposited the late fees amount of Rs. 10,320/- for the period April to October and in this regard the petitioner has enclosed copy of form DRC03 (Annexure-'P 8').

8. It is further submitted that due to ill health the petitioner could not prefer the appeal against the rejection of revocation application within the prescribed period of limitation. The appeal preferred by the petitioner against the cancellation order dated 26.12.2023 has been rejected by the appellant authority i.e., the Additional Commissioner (Appeal) vide order dated 14.06.2024 (Annexure-P-10).

9. Learned counsel for the petitioner submits that as a result of cancellation of his application for revocation of the cancellation order of registration, the petitioner has been rendered incapable in doing its business. In fact it amounts of

inflicting a civil death. It is submitted that once the petitioner has filed all the returns, paid taxes and deposited the late fee, the order by which the request for revocation of the cancellation order has been rejected is liable to be set aside and the competent authority be directed to consider the matter afresh.

10. The writ application has been opposed by the learned ASG. It is submitted that the date on which the registration of the petitioner was cancelled, the petitioner has not filed the returns. It is further submitted that on the date of rejection of the application for revocation of the cancellation order, the petitioner has not deposited the late fee. Therefore, no fault may be found either with the order cancelling the registration of the petitioner or with the order by which the request for revocation of the cancellation order has been rejected. In his submissions, this Court may set aside the order passed by the appellate authority to consider the appeal of the petitioner afresh.

**<u>Consideration</u>**

11. Having heard learned counsel for the petitioner and learned ASG for the Department of CGST & CX, this Court is of the considered opinion that once the petitioner has filed the returns, paid the taxes and deposited the late fee, the competent

authority/ respondents must consider his request for revocation of the order of cancellation of registration. In the opinion of this Court, a permanent cancellation of registration is likely to inflict civil death to the livelihood of the petitioner as because of the cancellation of his registration he would never be in a position to do business. In the present case, having regard to the fact that the petitioner has filed the return within 15 days from the date of cancellation of the registration, paid the taxes and then also deposited the late fee, his case deserves to be reconsidered.

12. At this stage, we do not agree with the submission of learned ASG that the matter may be remanded to the Appellant Authority. This Court is of the opinion that in stead of remanding the matter to the Appellate Authority, it would be just and proper to remit the matter to the respondent-authority who is competent to consider the request of the petitioner for revocation of the order of cancellation of registration.

13. Accordingly, we set aside the appellate order dated 14.06.2024 passed by the Joint Commissioner Appeal in Appeal Case No. 72/PAT/GST/APPEAL/2024-25 (Annexure-P/10) and the order as contained in (Annexure-7) dated 26.12.2023 in Ref. No. ZA1012231240878 by which the request of the petitioner for revocation of cancellation order has

been rejected. Matter is remitted to the competent authority i.e., the Assistant Commissioner, Purnea-1, who will consider the application for revocation of cancellation and pass and appropriate order there on a fresh within a period of two months from the date of receipt/production of a copy of this order.

14. This application stands allowed to the extent indicated above.

**(Rajeev Ranjan Prasad, J)**

**(Ramesh Chand Malviya, J)**

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