IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15282 of 2024

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Shubham Kumar S/o Jitendra Mishra, resident of village- Salahan, P.O.- Salahan, P.S.- Govindganj, District- East Champaran.

... ... Petitioner

Versus

1. The Commissioner of Customs, Central GST and Central Excise Patna, 2nd Floor, C.R. Building (Annexe) Birchand Patel Path, Patna, Bihar.
2. The Superintendent of CGST and Excise, Motihari Range Under Muzaffarpur Division.

... ... Respondents

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Appearance :
For the Petitioner : Mr. Umesh Tiwari, Advocate
For the CGST & CX : Mr. Anshuman Singh, Senior SC

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 18-09-2026

Heard learned counsel for the petitioner and learned Senior Standing Counsel for the Department of CGST & CX.

2. This writ application has been preferred seeking a writ in the nature of Writ of *Certiorari* to quash and cancel the order dated 18.09.2023 passed by Respondent No. 1 in Appeal No. 147/PAT/GST/Appeal/2023-24 whereby the Respondent No. 1 has dismissed the appeal and confirmed the order of Respondent No. 2 passed on 10.03.2023.

3. It is an admitted position that the petitioner could not file his GST returns for a period of 6 months as a result whereof he was served with a show cause notice dated 15.01.2023 (Annexure

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'P/3') under Rule 22(1)/sub-rule (2A) of Rule 21A. It is the case of the petitioner that he was ill and was suffering from Jaundice and internal fever for which he was getting treatment in Sanjeevani Emergency Hospital. The petitioner has enclosed a copy of the certificate granted by the Hospital on 15.06.2023 as Annexure 'P/1' to the writ application.

4. The petitioner admits that he was unable to file show cause and had failed to appear on the date of hearing. The Respondent No. 2 passed a *suo motu* order dated 10.03.2023 (Annexure 'P/4' to the writ application). A perusal of Annexure 'P/4' would show that the effective date of cancellation of registration is 10.03.2023, however, there was no liability on the petitioner to pay taxes.

5. In the writ application, a statement has been made by the petitioner that he filed his return on 15.04.2023 for the period before the registration was cancelled.

6. In the counter affidavit filed on behalf of the Respondents, the Department of CGST & CX has taken a plea that show cause notice was issued for cancellation of registration pointing out non-filing of returns for six months. The petitioner did not respond to the said notice. No authorized representative of the petitioner was deputed to act on his behalf within the required

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legal framework. In these circumstances, the impugned order dated 10.03.2023 was issued.

7. It is stated that the appeal preferred by the petitioner has been rightly rejected as the same was presented beyond one month after three months period of limitation prescribed under sub-section (94) of Section 107 of the Central Goods and Services Tax Act, 2017. It is further stated that since the registration of the petitioner was cancelled on 10.03.2023, the statement that he had filed the return on 15.04.2023, allegedly for the period before the cancellation of registration is contradictory.

8. Having heard learned counsel for the petitioner and learned Senior Standing Counsel for the Department of CGST & CX, we are of the considered opinion that the petitioner has claimed in the writ application that he had filed the return on 15.04.2023 for the period before the registration was cancelled. The words “for the period before the registration was cancelled” would not mean and be understood in the manner as has been understood by the respondents in their reply.

9. Further, we find that the petitioner has explained the reasons for not answering the show cause notice and for not participating in the hearing of the matter. We have noticed that in this case, only once, a notice was sent to the petitioner to which he

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could not respond. In the circumstances stated by the petitioner, since he was unable to respond to the said notice, an adequate opportunity was required to be given by fixing another date. The impugned order seems to have been passed without fixing any other date of hearing.

10. We are of the view that one opportunity is required to be given to the petitioner. Accordingly, this Court sets aside the impugned order dated 10.03.2023 by which the registration of the petitioner has been cancelled.

11. The respondents are directed to give an opportunity to the petitioner to file his response to the show cause notice and after giving an opportunity of hearing to the petitioner, an appropriate order shall be passed afresh by the respondents.

12. While considering the case of the petitioner, the competent authority shall examine the claim of the petitioner whether return was filed on 15.04.2023 or not. If it is found that the return was filed, the same would also be taken into consideration. If the return was not filed, then the competent authority may take a view as to why the petitioner may not be permitted to file the return even at this stage with the taxes, penalty and fine.

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13. Let the whole exercise be completed within a period of three months from the date of receipt/production of a copy of this judgment. The petitioner must co-operate by presenting himself before the competent authority on the date fixed in the matter.

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

(Rajeev Ranjan Prasad, J)

(Sunil Dutta Mishra, J)

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