

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18307 of 2022

Manoj Kumar Sah Son of Babu Saheb Sah, through Proprietor Manoj Kumar Sah, resident of Ward No. 14, J.P. Colony, Madhubani, P.O. and P.S.-Ale Madhubani, Bihar 847211.

... .. Petitioner/s

Versus

1. The State of Bihar through Commissioner of State GST, New Secretariat, Patna.
2. The Joint Commissioner of State Tax, Madhubani, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Archana Sinha @ Archana Shahi, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP 7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-01-2023

Petitioner has prayed for the following relief(s):

“a) For directing the respondents to restore the GST registration of the petitioner with immediate effect as the petitioner is ready to furnish the returns of earlier years within 1 months of the order of this Hon'ble Court.

b) For any other consequential relief or reliefs for which the petitioner is found entitled during course of hearing of this writ petition.”

Vide order dated 12.09.2019 (Page 8 to the brief),
the Joint Commissioner of State Tax, Madhubani, has cancelled



the petitioner's registration under the provision of Section 29 of the Bihar Goods and Services Tax Act, 2017. The order is extracted in toto as under:-

“Reference Number: ZA100919015537H

Date: 12/09/2019

To
MANOJ KUMAR SAH
WARD NO 14, J P COLONY,
MADHUBANI, Bihar, 847211
GSTIN/UIN:10BUTPS7873M1ZN
Application Reference No. (ARN): AA1008190183957

Dated:21/08/2019

Order for Cancellation of Registration

This has reference to your reply dated 31/08/2019 in response to the notice to show cause dated 21/08/2019

Whereas no reply to notice to show cause has been submitted;

Whereas on the day fixed for hearing you did not appear;

The effective date of cancellation of your registration is 12/09/2019

Determination of amount payable pursuant to cancellation:

Accordingly, the amount payable by you and the computation and basis thereof is as follows:

The amounts determined as being payable above are without prejudice to any amount that may be found to be payable you on submission of final return furnished by you.

You are required to pay the following amounts on or before 22/09/2019 failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

Head	Central Tax	State Tax/UT Tax	Integrated Tax	Cess
Tax	0	0	0	0
Interest	0	0	0	0
Penalty	0	0	0	0
Others	0	0	0	0
Total	0.0	0.0	0.0	0.0

Place: Bihar

Date: 12/09/2019

Devanand Sharma
Joint Commissioner of State Tax
Madhubani



It cannot be disputed that with the passing of the said order, petitioner is liable to both civil and penal consequences. To say the least, the authority ought to have at least referred to the contents of the show cause and the response thereto, which was not done. Not only the order is non-speaking, but cryptic in nature and the reason of cancellation not decipherable therefrom. Principles of natural justice stand violated and the order needs to be quashed as it entails penal and pecuniary consequences.

Hence, for all the aforesaid reasons, the order dated 12/09/2019 passed by the respondent no.2, namely the Joint Commissioner of State Tax, Madhubani, Bihar is quashed with the petitioner's registration restored, with a further direction to the respondent no.1, namely The State of Bihar through Commissioner of State GST, New Secretariat, Patna to finalize the petitioner's assessment and/or pass appropriate orders, in accordance with law.

We reiterate that issue of delay in filing the returns shall remain closed and not raised again as is stated by Sri Vivek Prasad, learned G.P.7 appearing for the respondents.



The writ petition stands allowed in the above terms.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Saurabh/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	11.01.2023
Transmission Date	

