

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15175 of 2024

M/s Maharaj Ji Enterprises having its office at Ajnauli, P.S. Benipatti, District- Madhubani, Bihar 847223, through its Proprietor, Amit Kumar Maharaj, Male, aged about 31 years, son of Shambhu Maharaj, Resident of Arania, P.S.-Jandaha, District- Vaishali, State-Bihar.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi-110001.
2. The Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi-110001.
3. The State of Bihar through the Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
4. The Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
5. The Commissioner of Central GST, Patna, Bihar.
6. The Joint Commissioner of State Taxes, Madhubani, District- Madhubani.
7. The Deputy Commissioner State Taxes, Madhubani, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Brisketu Sharan Pandey, Advocate Mr. Prince Kumar Mishra, Advocate
For the State	:	Mr. Pratyush Kumar, AC to GP-7
For the UoI	:	Mr. Anshuman Singh, Senior SC

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 16-07-2025

Heard learned counsel for the petitioner and learned AC
to GP-7 for the State.

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

“(i) For issuance of writ in the nature of
certiorari or any other appropriate writ



quashing/setting aside Order of Rejection of Application for Registration bearing Reference No. ZA1008240503711 dated 17.08.2024 (Annexure P/6) whereby and whereunder, application of petitioner for GST Registration has been rejected without assigning any reasons.

(ii) For issuing a writ of certiorari or any other appropriate writ quashing/setting aside Notice bearing Reference No. ZA1008240152352 dated 06.08.2024, (Annexure-P/5) whereby and whereunder, Petitioner has been asked to file the GST returns for the period between the date of cancellation of GST till the month previous to the new registration – ignoring the fact that on the website/portal of GST, there is no such option available in dropdown box for filling/updating the GST Return after February 2023 (Financial Year 2022-23) and as such it is impossible for the petitioner to file the same.

(iii) For issuing an appropriate writ/direction including the writ of mandamus thereby directing to the respondent authorities to allow the application of GST Registration filed by the petitioner and allow the petitioner to file its returns from the date of registration of the GST.

(iv) For issuing a writ of mandamus or any other appropriate writ holding that since the petitioner has already filed the return till the month of Feb 2023 of financial year 2022-23 and paid the taxes/return to the extent it was allowed in the GST portal to file GST returns; and now in view of the technical limitations on



the website of GST, no further return can be made.

(v) For passing any such other order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

Brief Facts of the Case

3. The facts in this case are not in dispute. The petitioner was registered with the Madhubani Circle and had a GST registration certificate vide Annexure 'P/1' to the writ application. It is the case of the petitioner that since his business did not go well, the GST returns could not be filed for a continuous period of six months. He was served with a show cause notice for cancellation of registration and subsequently the order of cancellation of registration was issued on 22.02.2023 vide Annexure 'P/2' to the writ application. So far so good, the petitioner has no grievance as regards the cancellation of his registration vide Annexure 'P/2'.

4. The grievance of the petitioner is that subsequently when he applied for a fresh registration after filing of the updated return and paid the amount of taxes as far as the GST portal allowed, he was served with a notice



bearing no. ZA1008240152352 dated 06.08.2024 (Annexure 'P/5') issued under signature of the Deputy Commissioner of State Tax, Madhubani. By this notice, the petitioner was called upon to update all pending return of earlier GST till previous month of new apply of GST registration.

Submissions on behalf of the Petitioner

5. Learned counsel for the petitioner submits that since the deficiency pointed out in the notice was not possible to rectify due to the technical glitch/limitation, he had no access to the GST portal after the month of February, 2023, he could not have filed return till previous month of the new apply of GST registration. It is stated that the petitioner orally informed his difficulties to the Respondent No. 7 but the Respondent No. 7 has passed order as contained in Annexure 'P/6' on 17.08.2024 by which he has rejected the application for registration. Attention of this Court has been drawn towards Annexure 'P/6' which is a one-line order issued by Respondent No. 7.

Submissions on behalf of the Respondents

6. A counter affidavit has been filed on behalf of the Respondent No. 7. It is found that the original copy of the



counter affidavit is not on the record, however, learned AC to GP-7 has submitted that he filed the original copy of counter affidavit on 20.11.2024. He has placed before this Court his copy of the counter affidavit to assist the Court.

7. For the present, let it be kept on the record.

8. The stand of Respondent No. 7 is that against the cancellation of previous registration, the petitioner did not file any revocation application nor did he file any appeal before the Appellate Authority. It is stated that since the petitioner had already got a registration on the same PAN which was cancelled due to non-compliance, the application for fresh registration was cancelled in accordance with CBIC Circular bearing No. 95/14/2019-GST dated 28.03.2019. The circular has been quoted extensively and the same is Annexure 'A' to the counter affidavit.

9. Learned AC to GP-7 submits that the petitioner could have also availed the amnesty scheme launched for restoration of cancelled registration. It is his submission that the petitioner seems to be a gross non-compliant and there may be an attempt to evade tax liability on the part of the petitioner.



Consideration

10. Having heard learned counsel for the petitioner and learned AC to GP-7 for the State as also on perusal of the records while it appears to this Court that the petitioner had a remedy available for revocation of the order of cancellation of his previous registration and he had a remedy of appeal also but he chose not to avail such remedies, instead he filed an application for fresh registration, in such circumstance, a question would arise for consideration as to whether a fresh application for registration is barred by the statute. So far as the circular (Annexure 'A' to the counter affidavit) is concerned, it clearly states interalia as under:-

“...While considering the application for registration, the proper officer shall ascertain if the earlier registration was cancelled on account of violation of the provisions of clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act and whether the applicant has applied for revocation of cancellation of registration. If proper officer finds that application fo revocation of cancellation of registration has not been filed and the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act are still continuing, then, the same may be considered as a ground for rejection of application for registration in terms of sub-rule (2) read with sub-rule (4) of Rule 9 of CGST Rules. ...”

11. On a bare reading of the circular, it is crystal clear that a fresh application for registration is not barred but what is required to be done by the Proper Officer is to record a



finding that the application for revocation of cancellation of registration has not been filed and the conditions specified in clauses (b) and (c) of sub-section (2) of Section 29 of the Central Goods and Services Tax Act (in short 'CGST Act') are still continuing.

12. At this stage, this Court would reproduce Section 29(2) of the CGST Act hereunder for a ready reference:-

“29. Cancellation ¹[or suspension] of registration.-

2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard:

²[Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.]”

1. Substituted by Act 12 of 2020, S. 121, for Cl.(c) (w.e.f 1-1-2021). Prior to its substitution, Cl. (c) read as under:- “(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.”.

2. Inserted by Act 31 of 2018, S. 14 (w.e.f 1-2-2019).



13. On perusal of Annexure 'P/6' to the writ application, it would appear that the same is a completely unreasoned order. No finding in terms of the requirement of the circular has been recorded by the Proper Officer. In fact, the reason for rejection of the fresh application of the petitioner as disclosed in the counter affidavit was not the issue mentioned in the notice seeking additional information/clarification/document from the petitioner. In this regard, Annexure 'P/5' would show that there was no reference of Section 29(2)(b) of the CGST/BGST Act, 2017. In fact, Annexure 'P/6' is an unreasoned order, hence, it is liable to be set aside.

14. This Court, therefore, sets aside the order of rejection of the application for registration (Annexure 'P/6') and remits the matter to the Deputy Commissioner of State Tax, Madhubani (Respondent No. 7) to give a fresh consideration to the application of the petitioner for registration. In case, it is found that the petitioner is required to comply with certain statutory requirements and he is willing to comply with the same, the Respondent No. 7 shall give the petitioner an appropriate opportunity to comply with the requirements whereupon his application for registration shall be considered



and an appropriate order shall be passed in accordance with law
as early as possible.

15. This writ application stands allowed to the extent
indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Ashok Kumar Pandey, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	17.07.2025
Transmission Date	

