(2025) 09 PAT CK 0761

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.6794 Of 2025

JD Enterprises APPELLANT

Vs

State Of Bihar and Ors RESPONDENT

Date of Decision : 02-09-2025

Acts Referred:
Central Goods and Services Tax Act, 2017 — Section 107

Citation : (2025) 09 PAT CK 0761

Hon'ble Judges : Rajeev Ranjan Prasad, J;Sourendra Pandey, J

Bench : Division Bench

Advocate : D.V. Pathy, Sadashiv Tiwari, Shiwani Dewalla, Prachi Pallavi, Hiresh Karan, Vikash Kumar

Final Decision : Dismissed

Judgement

Rajeev Ranjan Prasad, J

1. Heard Mr. D.V. Pathy, learned Senior Counsel assisted by Mr. Sadashiv Tiwari, learned counsel for the petitioner and Mr. Vikash Kumar, learned SC-11 for the State of Bihar and the other respondents.

2. The petitioner in this writ application is seeking the following reliefs:-

"i) the order dated 28.06.2024 (as contained in Annexure – P7) passed by the respondent no. 2 cancelling the registration on the solitary ground of the principal place of business found non-functional and non-existing as reported by the respondent no. 4 and 7 in his inspection report reflecting intent of pseudo-transaction/bill trading without consideration of the fact that the principal and the additional place of business were duly inspected by the respondent no. 3 and 4 and his team on 03.08.2021 and were found not only to be existent but also maintaining requisite invoice of purchase and sale which were produced in course of such inspection without consideration of the explanation and also without giving reasons being arbitrary, illegal and without jurisdiction be set aside and quashed.

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

Brief Facts of the Case

3. The facts of the case would reveal that the petitioner was granted a registration certificate in prescribed form GSTR REG – 06 w.e.f. 15.11.2019 under the Bihar Goods and Services Tax Act, 2017 (hereinafter called the ‘BGST Act’). According to the registration certificate, the principal place of business is Daudnagar, Aurangabad. It is stated that the additional place of business as recorded in the registration certificate is (1) Bheriya, Dehri, Rohtas, Bihar and (2) Lalganj Road, Lalganj, Hajipur, Vaishali, Bihar. The principal place of business is said to be located in a rented premises. The petitioner stocks coal at the additional places of business from where it conducts the transaction of purchase and sale.

4. The writ application further discloses that the petitioner has filed all its return since the date of grant of registration in the prescribed form GSTR 1 and 3B for each of the months. The petitioner has also filed its annual return. According to the petitioner, an inspection was carried out by the respondent nos. 3 and 4 and his team in the business premises of the petitioner. Annexure ‘P2’ is said to be the Inspection Report dated 03.08.2021.

5. Mr. Pathy, learned Senior Counsel has pointed out that in course of inspection, some invoices showing purchase and sale were found, however, the report points out that the documents such as purchase register, sale register, stock register, cashbook and the invoices of other purchases and sale were not produced by the assessee. The Inspection Report further points out that as per the data available on the GST Portal, during the financial year 2019-20, turnover has been shown as 66,27,922.00/-, in the financial year 2020-21, the turn over is 38,00,77,215.98/- and in the financial year 2021-22, the turn over is 10,59,15,073.70/- and right from the beginning i.e. from the date of its registration (June 2021), the tax liability has been set off through the Input Tax Credit and it has been shown ‘NIL’.

6. Learned Senior Counsel further points out that another inspection was carried out on 23.11.2021 and in this regard, Inspection Report (Annexure ‘P3’) has been submitted. It is his contention that a third inspection was conducted on 02.05.2024 and on the same day, another inspection was conducted by another set of authorities and both the reports are Annexures ‘P/4’ and ‘P/5’ to the writ application. He has strenuously argued that during the first two inspections, the report did not mention that the petitioner firm is non-existent at the principal place of business but in the third and fourth report, it is reported that the firm is a non-existent firm and on that basis, a show-cause notice as contained in Annexure ‘P6’ was issued to the petitioner calling upon him to show cause as to why his registration be not cancelled. The petitioner submitted his response in which she asserted that she is carrying on her business from the principal and

additional place of business. It is submitted that the first is the small office for conduct of business and the second is for storage and sale/supply of the coal and that the same are duly disclosed in the registration certificate. Although copy of the written submission filed before the competent authority has not been enclosed with the writ petition, however, these submissions have been made in paragraph '14' of the writ application.

Submissions on behalf of the Petitioner

7. Learned Senior Counsel has submitted that notwithstanding the submission made, the respondent no. 2 relied upon the inspection reports and passed an order cancelling the registration of the petitioner which is Annexure 'P7' to the writ application and the same is under challenge. Learned Senior Counsel has assailed Annexure 'P7' on the ground that the last two inspections were carried out with an intention to close the business of the petitioner even though the petitioner has been regularly filing it's return. According to him, though the petitioner has got a statutory remedy of appeal under Section 107 of the BGST Act but because the order impugned has been passed in violation of principle of natural justice without giving an opportunity of hearing to the petitioner, the present writ application has been filed invoking the extraordinary writ jurisdiction of this Court.

Submissions on behalf of the Respondents

8. The writ application has been contested by the respondents. Mr. Vikash Kumar, learned SC-11 submits that in this case, the petitioner was given an opportunity to submit his response and he was specifically informed in the show cause notice (Annexure 'P6') that he may avail the time for personal hearing also. It is submitted that the written submissions filed by the petitioner before the Joint Commissioner of State Tax (Respondent no. 2) has not been brought on record, therefore, the Writ Court has no privilege to know the stand of the petitioner before Respondent No. 2. Pointing out to the show cause notice and the reasons contained therein, learned SC-11 submits that Rule 21(a), (b) and (c) of the BGST Rule are duly attracted in the facts of the present case. The order as contained in Annexure 'P7' contains the reasons for cancellation of the registration. It has been found that there was no godown or storage place and only by creating some documents Pseudo transactions/ Bill trading have been done.

9. Learned SC-11 points out that the conduct of the petitioner may be found from the inspection reports which are Annexures 'P/2', 'P/3', 'P/4' and 'P/5' respectively. In the first inspection, when the Inspecting Team went to the principal place Daudnagar, Aurangabad, no business activities were found. The Registration Certificate did not contain complete address, so the team could not know the main place of business. The assessee informed that all business activities were being carried on from additional place Coal Depo Bheria, Dehri, Rohtas. The Inspecting Team, therefore, reached Bheria but it was found that the

premises was closed, there was no name of the establishment and GSTIN number. The assessee was contacted, who appeared and the inspection was conducted in his/her presence. It was a 10 x 10 Ft. room. He informed that there are two places where the coals are being stored. The Team found that at first place i.e. Coal Depo Bheria, there was 'NIL' stock. The assessee disclosed another place in Diliya Village where 10 tons of coal were found. The Inspecting Team found that there were some invoices of purchase and sale but most of the documents which are maintained at a place of business were not produced. In the second inspection which was conducted on 23.11.2021, the brother of the proprietor Puja Kumari appeared. He produced some invoices showing purchase and undertook to produce the documents but the bill-books were not produced. Sufficient time was given to the assessee to produce the book of accounts but those were not produced whereafter third and fourth inspection was also conducted. Referring to the fourth Inspection Report dated 02.05.2024 which relates to Inspection of Bheria Dehri, learned SC-11 submits that no one appeared there to cooperate. On query from the nearby people, they showed unawareness of the presence of the establishment. It is pointed out that when the husband of the assessee was contacted over the mobile phone, he informed that he was outside, in Varanasi and cannot come. He gave another area name of another area of Daudnagar as address of the establishment where the Inspecting Team did not find any business activity in the premises of the assessee.

10. Learned SC-11 submits that Annexure 'P6' would make it crystal clear that the assessee was given an opportunity to file a reply and to appear for personal hearing. The assessee submitted her reply but did not appear for personal hearing. In the writ application, it is not her case that she had requested for any personal hearing to the respondents which has been denied. In the circumstances, this Court need not exercise its extraordinary jurisdiction to interfere with the impugned order.

Consideration

11. Having heard learned Senior Counsel for the petitioner and learned SC-11 for the Respondents as also on going into the pleadings available on the record, we find that the show cause notice (Annexure 'P/6') contains the following reasons for suspension of the registration of the petitioner:-

"1. Rule 21(a) – person does not conduct any business from declared place of business.

2. Rule 21(b) – person issues invoice or bill without supply of goods or services or both in violation of the provisions of the Act, or the rules made thereunder.

3. Rule 21(e) – person avails ITC in violation of the provisions of section 16 of the Act or the rules made thereunder.

4. During the inspection, The Business of the taxpayer has been found non functional, while the declared additional place of business has also been found

non existent. Prima facie the business transaction being made by the taxpayer seems to be a kind of Bill trading."

12. The petitioner claims that a written submission was filed before the Joint Commissioner State Tax (Respondent No. 2), therefore, it is not a case where the petitioner was not served with the notice to show cause or was not given an opportunity to defend itself. At this stage, there is no violation of principle of natural justice.

13. We have further noticed that in the Inspection Report (Annexure 'P/4'), there is a clear statement that when the Inspecting Team contacted the proprietor on the mobile phone which was provided in the registration certificate, then the husband of the Proprietor informed the Authority talking on the mobile that he was in Varanasi for some personal work and he cannot come. At the same time, it is recorded that he named a different area of Daudnagar where the establishment is located, however, the authority has recorded that he was himself telephonically talking with the proprietor from the place of business at Nalband Toli, Ward No. 08, Daudnagar. For this reason, the said Authority took a view that the proprietor was concealing the correct address of the establishment and was giving a different address. The Inspecting Team further records that no business activity was found in the establishment and only for purpose of bill trading, one room was taken on rent and a board was fixed thereon. This was also confirmed by the landlord. Copy of the letter of the landlord has been enclosed with the Inspection Report. The copy of the written submission filed by the petitioner before the Joint Commissioner State Tax is not on the record, the copies of Inspection Reports have been enclosed with the writ petition but from the averments made in the writ petition, it nowhere appears that this finding of the Inspecting Team has been assailed.

14. In the circumstances stated above, the order of cancellation of registration of the petitioner (Annexure 'P/7') has been passed. The order is a reasoned order and we quote the same hereunder for a ready reference:-

15. In the facts of the present case, we are of the considered opinion that no case for interference by this Court in exercise of its extraordinary writ jurisdiction has been made out.

16. The writ application is liable to fail. It is dismissed.

