(2024) 12 PAT CK 1246

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.4030 of 2024

Singodwala Warehousing and Logistics Pvt. Ltd APPELLANT

Vs

State of Bihar And Others RESPONDENT

Date of Decision : 04-12-2024

Acts Referred:

Citation : (2024) 12 PAT CK 1246

Hon'ble Judges : K. Vinod Chandran, CJ;Nani Tagia, J

Bench : Division Bench

Advocate : Sachin Kumar, Abhishek Kumar Pandey, Vikash Kumar

Final Decision : Allowed

Judgement

K. Vinod Chandran, CJ

1. The petitioner, an assessee under the Bihar Goods and Services Tax Act, 2017 (for short 'BGST Act'), is aggrieved with the cancellation of registration, for reason of his business being found non-existent.

2. On facts, it is to be noticed that by Annexure-P/1 dated 09.07.2023, a show-cause notice was issued for cancellation of registration, since the premises were found non- existent during field verification. Annexure-P/2 dated 27.07.2023 is the order for cancellation of registration. The petitioner filed an application for revocation, which was declined by Annexure-P/4 dated 23.09.2023. Annexure-P/5 indicates the assessment order for the years 2020-21, 2021-22 and 2022-23 along with the demands raised.

3. The petitioner submits that the entire amounts demanded have been paid up. The petitioner then approached the Appellate Authority against the order of cancellation of registration, the order in which is seen at Annexure-P/6. The Appellate Authority also rejected the appeal of the petitioner.

4. Learned Counsel for the petitioner Shri Sachin Kumar argued before us that there was absolutely no details of the inspection either in the show-cause notice

or the final order passed; neither was the Inquiry Report supplied to the petitioner, is the contention.

5. Learned Counsel for the petitioner also relied on Annexures-P/7 and P/8 judgments, wherein this Court had interfered with the cancellation orders.

6. Shri Vikash Kumar, learned Government Advocate specifically referred to the supplementary counter affidavit filed, after our directions dated 13.08.2024. It is pointed out that an inspection was conducted at two premises, one of which was asserted to be the business premises of the petitioner, wherein there was no sign of such business activity having been conducted. Later, when the revocation application was filed, a further inspection was conducted, in which also the business was found to be non-existing, as is revealed from the Panchnama dated 22.09.2023, produced along with the supplementary counter affidavit.

7. As we noticed from the facts, the petitioner had been diligent in challenging the cancellation order. We find that there is absolutely no details with respect to the inspection in the Show Cause Notice or the order of cancellation nor the Inspection Report supplied to the petitioner. We are also unable to place any reliance on the Inspection Report dated 06.07.2023, produced along with Annexure R/3 series. It does not show any witnesses having been called at the time of inspection and the reasoning stated is also that on suspicion, an inspection was conducted, when the business premises was found closed, as is clear from the photographs.

8. We are unable to place any reliance on the Inspection Report or the photographs, since the date and time of such inspection is not revealed in the report or the photographs. It is also pertinent that the Inspection Report was never supplied to the petitioner along with the show-cause notice.

9. The further contention is, of an inspection having been conducted after the revocation; when again the business was found to be not functional. Insofar as the inspection conducted after revocation, the business could not have been resumed unless the registration was resumed, and we find absolutely no reliance on the Panchnama dated 22.09.2023. We also notice that the Panchnama has not been signed by the officer and there were no details with respect to the Panchas who have merely signed on the document, one with a date.

10. We are unable to sustain the orders passed. The Government had also by Circular No. 3 of 2023 permitted a window of relief insofar as permitting all cancellation of registrations to be resumed on payment of up-to-date dues.

11. In the present case, the petitioner submits that he has paid the up-to-date dues, if not, the petitioner shall pay it within a period of one month from today. On payment of the up-to-date dues, the petitioner’s registration shall stand restored. The petitioner shall appear before the Assessing Officer on 20.12.2024, producing the documents to show the dues having been satisfied fully. If dues are still payable and the petitioner desires to file an appeal from the assessment

order passed, an undertaking to that effect shall be made, and in that circumstance, the registration shall be restored on payment of 10 per cent of the total amounts.

12. The writ petition would stand allowed with the above observation.