

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.19493 of 2022

M/s. SHREE HARI PRINTERS

Petitioner

Mr. Rudra Prasad Kar, Advocate and

Mr. Asit Kumar Dash, Advocate

-versus-

The Commissioner, Commercial

Taxes & GST, Banijyakar Bhawan &
Others

Opposite Parties

Mr. Susant Kumar Pradhan,
Add. Standing Counsel for CT &
GST Organisation

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER
11.08.2022

Order No.

- 01.** **1.** This matter is taken up by virtual/physical mode.
- 2.** Registration Certificate bearing No. GSTIN 21AHMPT7297F2ZU issued in favour of Harsal Taunk with the Trade name, Shree Hari Printers being cancelled vide order dated 13th January, 2021 by Additional CT & GST Officer, Angul Circle, the Petitioner has come up before this Court by filing the writ petition on 2nd August, 2022 invoking provisions under Articles 226/227 of the Constitution of India.

3. It is alleged by the counsel for the Petitioner that the Additional CT & GST Officer, CT & GST Circle, Angul has not afforded sufficient opportunity to furnish reply. Counsel for the Petitioner submitted that due to ill health, there was default in furnishing returns as well as payment of taxes and the Petitioner could not respond to notice in Form GSTR-3A and Form REG-17. Therefore, he submitted that this Court if issues direction to the Opposite Party No. 4 namely, the Addl. CT & GST Officer by invoking provision of Section 30 and to revoke the order of cancellation of registration, the Petitioner would be in a position to deposit the amounts as statutorily required.

4. Mr. Susanta Kumar Pradhan, Addl. Standing Counsel for the Opposite Parties appearing on advance notice states that Section 30 read with 23 of the Odisha Good and Services Tax Rules, 2017 (for short, "the OGST Rules") stipulates period within which the taxable person is required to approach the proper officer. Therefore, he urges that unless the delay in approaching the proper officer for revocation of registration is condoned and compliance of statutory requirement of paying tax, interest and penalty along with late fee is made, no relief ought to be granted to the Petitioner.

5. Mr. Kar, counsel for the Petitioner at this juncture submitted that the Petitioner is ready and willing to discharge his liability by depositing tax, interest, penalty along with late fee as provided under Rule 23 of the OGST Rules. He also submitted that

the Petitioner would file all returns for the tax periods in respect of which tax, penalty and interest are required to be deposited. Counsel for the Petitioner has furnished the copies of order dated 8th September, 2021 passed in WP(C) No. 26404 of 2021 (M/s. Dilip Kumar Roul vs. The Commissioner of CT & GST, Odisha and Another) and order dated 22nd February, 2022 passed in WP(C) No. 4892 of 2022 (Basanta Kumar Palita vs. The Commissioner, CT & GST, Odisha & Another) and submitted that this Court has already interfered with identical situation and granted appropriate relief.

6. We are taken to look into the provisions for revocation of cancellation of registration contained in Section 30 which read as follows:

“(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the Central Goods and Services Tax Act shall be deemed to be a revocation of cancellation of registration under this Act.”

7. Sub-rule (1) of Rule 23 of the OGST Rules, 2017 is quoted hereunder so far as is relevant for the present purpose:-

“(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG- 21, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of

registration within a period of thirty days from the date of order of revocation of cancellation of registration.

It is required under Section 30(1) read with Rule 23(1) that an application for revocation of cancellation of registration in Form GST REG-21 is required to be submitted to the proper officer who has cancelled the same invoking Section 29. The application for revocation is required to be made within 30 days from the date of service of the order of cancellation of registration. In view of first proviso to Rule 23(1), it is stipulated that no application for revocation shall be filed unless returns are furnished and amount due as tax in terms of such returns is paid along with any amount payable towards interest, penalty and late fee in respect of said return and as per proviso to sub-rule (1) to Rule 23, all returns due for the period from the date of order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished within a period of 30 days from the date of revocation of cancellation of registration.

8. Having conceded by both the parties, if the Petitioner files application for revocation of cancellation of registration within a period of 30 days from today, the proper officer shall consider the same in its proper perspective by condoning the delay and such consideration shall be subject to the Petitioner depositing the tax, interest, penalty and late fee from the date of default. In order to enable the Petitioner to deposit tax, interest and penalty along with late fee, the proper officer shall take steps to open the portal and

Citation no. 2022 (8) GSTPanacea 129 HC Orissa

also allow the Petitioner to file all its returns. Upon compliance of the above, the proper officer shall consider the application for revocation of cancellation of registration in accordance with law.

9. With the aforesaid observation and direction, the writ petition stands disposed of.

Issue urgent certified copy as per rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge



Aks

August 11, 2022 Cuttack