IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6588 of 2026

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M/S Super Enterprises having its Registered Office- Ward No. 31, Atardah, Kachipaki Road, Musahir, Muzaffarpur, Bihar, 842002, and represented through its sole proprietor Mr. Sanat Kumar, aged about 48 Years, S/o -Late Surendra Prasad Mehta.

... ... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, having its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi-110001.
2. The Chief Commissioner, CGST and CX, Office at C.R Building, 1st Floor, Bir Chand Patel Path, Patna, Bihar.
3. The State of Bihar through Commissioner, BGST, Kar Bhawan, Patna
4. The Superintendent, CGST and Central Excise, Muzaffarpur East Range, Muzaffarpur.
5. The Additional Commissioner (Appeal), Office of the Additional Commissioner (Appeal), Muzaffarpur Division, Muzaffarpur.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Anurag Saurav, Advocate Mr. Abhishek Dubey, Advocate
For the CGST	:	Mr. Sriram Krishna, Senior Standing Counsel
For the State	:	Mr. Rewti Kant, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 28-08-2026

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ application has been filed seeking the following reliefs:-

> "i. For issuance of writ in the nature of Certiorari for setting aside order dated 21.07.2025 passed by Additional Commissioner, (Appeals), Muzaffarpur

in Appeal Case No. GST-403/Pat/2025-26, whereby and whereunder the Appellate Authority dismissed the appeal filed by the petitioner solely on the ground of limitation, without adjudicating the case of merits.

ii. For issuance of an appropriate writ/order/direction for setting aside Ex Parte Order bearing reference no. ZA100424049946J dated 22.04.2024, passed by Respondent Superintendent, CGST & Central Excise, Muzaffarpur, East Range, whereby and whereunder respondent authority proceeded ex-parte and vide order dated 22.04.2024, without providing an opportunity of hearing to the petitioner cancelled the GST registration of the petitioner and the impugned order has been passed without assigning any cogent reasons and specifying the period of default, thereby rendering the order non-speaking and unsustainable in law.

iii. For Issuance of Writ in the nature of Mandamus directing the respondent authority to restore the GST Registration of the Petitioner after revocation of cancellation of registration with immediate effect, as the petitioner had already furnished the pending returns of previous years and further undertake to filed any Pending Return or make payment of any pending tax if any, assessed by respondent authority within Fifteen Days from the date of the Order of this Hon'ble Court.

iv. For issuance of an appropriate Writ(s), order(S), and/or direction(s), as Your Lordships may deem fit and proper in the facts and

> circumstances of this case in the interest of justice."

Submissions on behalf of the Petitioner

3. Learned counsel for the petitioner submits that the petitioner was furnishing the annual as well as the monthly returns under the Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the 'BGST Act'), however, due to some unavoidable circumstances which rendered him immobile and he was unable to manage the affairs of his business effectively during the relevant period, his returns could not be filed in time. The petitioner admits that because of his illness and resulting incapacity, the return was not filed for six months.

4. In the writ application, the petitioner submits that the show cause notice (in short 'SCN') was uploaded on the web portal and the petitioner was directed to submit his show cause within a period of 30 days from the date of service of notice. It is, however, his case that while the authorities fixed 07.03.2024 as the date for filing of the show cause, the date of hearing was fixed even prior to that, on 05.03.2024. In this regard, learned counsel has pointed out from Annexure 'P/2' dated 06.02.2024 that the petitioner had to furnish a reply to the notice within 30 days from the date of service of notice. It is submitted that in terms of the scheme of Section 75(4) of the BGST Act, the date of personal hearing was required to be fixed only after the authorities would not have been convinced with the show cause and an adverse order was contemplated. Thus, fixing a date for hearing on 05.03.2024 in the show cause notice (SCN) dated 06.02.2024 was an empty formality.

5. Learned counsel submits that the consultant of the petitioner failed to inform the petitioner about the SCN and the non-filing of the return, therefore, the petitioner was not aware about the issuance of SCN and no response could be submitted in time.

6. It is submitted that by way of an *ex-parte* order passed on 22.04.2024 (Annexure 'P/3'), the registration of the petitioner has been cancelled. The petitioner, however, submitted the returns in GSTR-3B and GSTR-1 as also made the payment of all pending taxes. He also paid the late fee and the penalty, thereby demonstrated his bonafide and his intention to comply with the statutory obligations. A copy of the GSTR-3B return and GSTR-1 return have been annexed as Annexure 'P/4' and Annexure 'P-4/1' to the present writ application.

7. Learned counsel submits that the petitioner had preferred an appeal before the Additional Commissioner (Appeals), Muzaffarpur on 16.06.2025 challenging the order of cancellation of his registration but the same has been rejected vide order dated 21.07.2025 (Annexure 'P/6').

8. Learned counsel submits that in the case of **M/s Galaxy Heights Vs. The Union of India and Others (CWJC No. 4204 of 2025)**, this Court has taken a view in identical circumstance that a permanent cancellation of registration is likely to inflict civil death to the livelihood of the petitioner as because of the cancellation of his registration, he would never be in a position to do his business. It is submitted that in the facts and circumstances of the case, appropriate direction be given to the respondent authorities to consider revocation of the cancellation of registration of the petitioner.

Submissions on behalf of the Respondents

9. A counter affidavit has been filed on behalf of Respondent Nos. 1, 2, 4 & 5. It is the case of the respondents that the tax payer was not prompt in filing his returns. On earlier two occasions, he was served with SCN for cancellation of registration but on getting the response of the petitioner, those SCNs were dropped. In this case, the petitioner did not submit any SCN and as he had failed to furnish his returns after June 2023, hence, failure to file the returns continuously for a period of six months/two quarters invited the impugned action.

10. Learned counsel submits that adequate opportunity was given to the petitioner to file SCN. It is submitted that the petitioner cannot be allowed to take a plea that because of laches on the part of his consultant, the return could not be filed.

11. It is further submitted that the appeal was preferred at a much belated stage, therefore, the Appellate Authority has committed no error in dismissing the appeal on the ground of limitation.

Consideration

12. Having heard learned counsel for the petitioner and learned counsel for the respondent authorities as also on perusal of the records, we find that in this case, the petitioner has already submitted his returns in GSTR-3B and GSTR-1 as back as on 26.05.2025. Copies of the returns are available on the record as noted hereinabove. Petitioner has paid the entire due taxes together with the late fee and the penalty. No doubt, the petitioner had failed to file the return for six months which invited the impugned action but it cannot be denied that the respondent authorities fixed the date for personal hearing only by way of an empty formality.

13. Section 75(4) of the BGST Act reads as under:-

> "75. General provisions relating to determination of tax.-

> (4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person."

14. A bare reading of the aforesaid provision would show that a date for hearing is required to be fixed where any adverse decision is contemplated against the person. In this case, the notice was issued to file show cause. When no show cause was filed within the given period of 30 days, thereafter, a date of hearing was required to be fixed or in case of filing of the show cause, if the authorities would not have been satisfied with the plea taken in the show cause and an adverse order would have been contemplated then in that case also, a date for hearing was required to be fixed.

15. We have taken a view in the case of **M/s Galaxy Heights** (supra) that a permanent cancellation of registration is likely to inflict civil death to the livelihood of the petitioner. Keeping in view this aspect of the matter, in the facts of the present case, we set aside the appellate order and grant liberty to the petitioner to file an application seeking revocation of the order of cancellation. In **M/s Galaxy Heights** (supra), the petitioner had filed an application for revocation but that was also rejected on the ground of limitation, therefore, this Court had intervened and set aside the orders and remitted the matter to the competent authority to consider the application for revocation of cancellation and pass an appropriate order.

16. In the present case, we grant liberty to the petitioner to file an appropriate application within a period of three weeks from today before the competent authority seeking revocation of the order canceling the registration of the petitioner. If such an application is preferred within the stipulated period, the competent authority shall consider the same on its own merit and shall not reject the same on the ground of limitation alone. An appropriate order thereon shall be passed within a period of two months from the date of filing of the application for revocation.

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

(Rajeev Ranjan Prasad, J)

(Ramesh Chand Malviya, J)

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AFR/NAFR	AFR
CAV DATE	
Uploading Date	29.08.2026
Transmission Date	