IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.36279 of 2025

Prakash Kumar Nayak ... ***Petitioner***

Mr. Aditya Singh Mohanty, Advocate

-Versus-

Commissioner, CT & GST and another ... ***Opposite Parties***

Mr. Sunil Mishra, Standing Counsel for CT & GST Organisation

CORAM:
THE HON'BLE THE CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

ORDER

Order No. **19.12.2025**

01. ***1.*** Order dated 19.01.2024 passed by the Assistant Commissioner of State Tax, Bhadrak Circle cancelling the registration certificate granted on the ground envisaged in clause (e) of sub-section (2) of Section 29 of the Odisha Goods and Services Tax Act, 2017/the Central Goods and Services Tax Act, 2017 (Collectively, "GST Act") with effect from said date is under challenge before this Court by way of the instant writ petition.

2. Mr. Aditya Singh Mohanty, learned advocate for the petitioner submitted that the petitioner was granted a registration certificate with effect from 05.09.2023 under the GST Act in respect of business to be carried on in the name and style "PRAKASH ARTS". Since the proprietorship of the said business concern suffered a serious health issue since November, 2023, he could not remain present at the time of inspection by the authorities concerned at the declared place of business on 21.12.2023; as a result of which, in pursuance of an enquiry report submitted, the Assistant

Commissioner of State Tax, Bhadrak Circle proceeded to cancel the registration certificate invoking provisions of clause (e) of sub-section (2) of Section 29 of the GST Act, citing the ground that the said registration obtained by means of fraud, wilful misstatement or suppression of facts.

2.1. Learned advocate for the petitioner submitted that at the time of making application for grant of registration, the petitioner submitted documents like rent agreement, Aadhaar card, PAN card which were duly verified and the registration number under the GST was assigned. At the relevant point of time when the spot verification was undertaken by the GST Organisation, the query of officer concerned could not be met. He, thus, submitted that given a chance, the petitioner would be able to substantiate that there was no misstatement of facts or fraud played by the petitioner.

3. Shri Sunil Mishra, learned Standing Counsel for CT and GST Organisation submitted that the only reason for which the registration of the petitioner stood cancelled under Section 29(2)(e) of the GST Act is that the registration was obtained by means of fraud, wilful misstatement or suppression of facts. The petitioner did not choose to respond to notice dated 05.01.2024, which was issued on the basis of adverse Post GST Registration visit report; as a consequence, the order of cancellation of registration was passed by the Assistant Commissioner of State Tax, which cannot be faulted with.

4. Having considered the submissions and on perusal of record, it is demonstrably manifest that the petitioner has been suffering from serious health issues, evidence of which is enclosed to the writ

petition. The prescription and medical history, as set forth in the writ petition could not be dislodged by the learned Standing Counsel.

5. Therefore, this Court has no occasion to disbelieve the documents demonstrating ill health and that the petitioner has been under constant medical supervision. However, scrutiny of notice dated 05.01.2024 *vide* Annexture-4 indicates the following reason:

> *"As per the receipt of adverse Post GST Registration visit report."*

5.1. Though a reply was sought for in this regard from the petitioner, no indication is found from the notice that a copy of adverse Post GST Registration visit report has been supplied to the petitioner. Since the notice itself is vague and it is mechanically issued without eliciting the allegation/objection with respect to "fraud, wilful misstatement or suppression of fact". In absence of non-inclusion of germane document with such notice, it being inchoate, the notice can be said to be *non est* of the eye of law. Therefore, the order of cancellation of the registration passed as a sequel to such notice cannot be sustained.

5.2. In furtherance to the above, the order of registration reveals the following reasons:

> *"Section 29(2)(e)— registration obtained by means of fraud, wilful misstatement or suppression of facts"*

5.3. The order is laconic, terse and bald. The order of cancellation leads to civil and evil consequences. There is no discussion in the order of cancellation with respect to the circumstances for commission of fraud. It is also silent about wilful misstatement.

Neither the SCN nor the order impugned shows iota of evidence relating to suppression of facts.

6. Since the Assistant Commissioner of State Tax has not applied his independent mind upon receiving the alleged "visit report" and jumped to the conclusion that the registration was obtained "by means of fraud, wilful misstatement or suppression of facts" without making any discussion, the order of cancellation is tainted with arbitrariness. Unless evidence on record clearly establishes that the petitioner was involved in obtaining the registration by means of such alleged "fraud", "wilful misstatement" or "suppressions of facts", the conclusion could not have been made on assumption and without positive fact being proved by the authority concerned, no inference could be taken with respect to "fraud", "wilful statement" or "suppression of facts" in obtaining the certificate of registration.

7. Under the aforesaid premises, this Court is persuaded to believe that the order for cancellation of registration dated 19.01.2024 has been mechanically passed without confronting the petitioner with the "adverse Post GST Registration visit report". Taking cognizance of facts that during the relevant period of time, the petitioner was undergoing prolonged treatment and was under constant medical supervision, his absence on the date of visit by the official of the GST Orgnisation cannot be disbelieved.

7.1. In such view of the matter, this Court not only sets aside the order for cancellation of registration dated 19.01.2024 but also quashes the show cause notice dated 05.01.2024 for failure to comply with the principles of natural justice.

8. Counsel for the petitioner submitted that given a chance, the returns shall be filed along with applicable tax and interest. The learned Standing Counsel has no objection for such deposit(s) being directed to be made and liberty can be granted to the petitioner to furnish returns.

8.1. It is, therefore, directed that the authority (the Assistant Commissioner of State Tax, Bhadrak Circle, Balasore, Odisha) shall facilitate the petitioner to deposit tax and interest and furnish returns within a period of two weeks from the date of receipt of copy of this order.

8.2. Needless to observe that in the event of failure to comply with the aforesaid direction by the petitioner, the order of cancellation shall remain valid and the GST Organisation is at liberty to proceed against the petitioner in accordance with law.

9. Accordingly, the writ petition stand disposed of.

(Harish Tandon)
Chief Justice

(M.S. Raman)
Judge

Aswini