

# **M/S Pragya Publicity Center vs State Of U.P. And 3 Others on 30 April, 2025**

**Author: Piyush Agrawal**

**Bench: Piyush Agrawal**

HIGH COURT OF JUDICATURE AT ALLAHABAD

Neutral Citation No. - 2025:AHC:67562

Court No. - 10

Case :- WRIT TAX No. - 2242 of 2024

Petitioner :- M/S Pragya Publicity Center

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Rishi Tandon

Counsel for Respondent :- C.S.C.

Hon'ble Piyush Agrawal, J.

1. Heard Mr. Rishi Tandon for the petitioner and Mr. Ravi Shanker Pandey, learned ACSC for the State-respondents.

2. By means of present petition, the petitioner is praying for the following relief:-

1. Issue a writ, order or direction in the nature of certiorari quashing the order dated 27.09.2024 passed by Additional Commissioner Grade -II (Appeal) in Appeal No.

AD090924154604R, the revocation order dated 22.03.2024 passed by the Joint Commissioner, Varanasi in ARN No. AA0902240921963 and the order dated 23.10.2023 passed by the Assistant Commissioner, Sector -17, Varansi ARN No. AA0903230120660 (Annexure Nos. 1, 2 and 3 respectively to the writ petition)."

3. Learned counsel for the petitioner submits that the petitioner is a proprietorship firm engaged in the business of advertising having GSTIN No. 09BENPK7357G1ZZ and is maintaining books of account as required under Section 35 of the CGST / SGST Act and Rules 56 of the CGST/SGST Rules. On 2.3.2023 a show cause notice was issued for cancellation of registration on the ground that the petitioner has failed to furnish the returns for continuous period of six months. Thereafter the registration of the petitioner was cancelled on 23.10.2023 by the Assistant Commissioner, Varanasi on the ground that under Rule 21 (a) person does not conduct any business from the declared place of business. He further submits that the petitioner was never put to any notice for the reason mentioned in the order of cancellation of registration. He submits that cancellation of registration can be made as per Section 29 of the Act and there is no contravention of conditions mentioned under Section 29 of the Act on the part of the petitioner but the authorities have illegally cancelled the registration of the petitioner. He further submits that a revocation application was moved but the same was also rejected by the order dated 22.3.2024. Being aggrieved to the said orders, the petitioner filed an appeal however without assigning any reason, the appeal has also been dismissed vide order dated 27.9.2024.

4. In support of his submission, learned counsel for the petitioner has relied upon the judgment of Delhi High Court in the case of M/s Chauhan Construction Company Vs. Commissioner of DGST and another (W.P. (c) 12506/2024) decided on 6.9.2024.

5. Per contra, learned ACSC supports the impugned order.

6. After hearing learned counsel for the parties, the Court has perused the records.

7. The records shows that the petitioner is engaged in the business of advertising but the notice was issued for cancellation of registration on the ground of failure to furnish the return for continuous period of six months. The petitioner was directed to submit its reply and appear in person on 31.3.2023 at 11:00 A.M. before the undersigned officer of notice. Copy of the notice is annexed as Annexure no. 4 to the writ petition. On perusal of the said notice neither name of the proper officer has been mentioned nor its description has been mentioned. Once the notice does not disclose that before which officer, the petitioner has to appear, the notice cannot be said to be proper or in accordance with law. Further the cancellation order has been passed on 23.10.2023 indicating the reasons for cancellation that as per Rule 21 (a) of the Rules, the person does not conduct any business from the declared place of business. On perusal of the record, it shows that the show cause notice was given for failure of filing of return of continuous period of six months, whereas the order of cancellation has been passed on a new ground that no business was performed on the declared place, for which the petitioner was never put to the notice. Once the impugned cancellation order has been passed without putting any notice to the petitioner, the same itself is in violation of principles of natural justice. The petitioner was never put to any notice on the ground on which the

order of cancellation of registration has been passed. Further the petitioner was also not afforded any opportunity of being personally heard. Therefore, the impugned order cannot be sustained in the eyes of law.

8. The record shows that the quasi judicial order which has an adverse effect on the right of the petitioner to run business as guaranteed under Article 19 of the Constitution of India, the same has been done without any application of mind which is neither the intent of the Act nor can it be held to be in compliance of the mandate of Article 14 of the Constitution of India.

9. Learned counsel for the petitioner further argues that his appeal has not been decided on merit though the same has been dismissed on the ground of laches, therefore, the doctrine of merger will have no application.

10. The impugned order which affect the right of the petitioner and has devoid of any reason, can be challenged before this Court as held by Hon'ble the Apex Court in the case of Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others, 1998 (8) SCC 1.

11. This Court in the case of M/s Surya Associates Vs. Union of India and others (Neutral Citation No. 2024:AHC:166791) has held as under:

"16. Further, this Court in the case of Ashok Kumar Vishwakarma (supra) has held that if no reason has been assigned for cancelling the registration, such order cannot sustain despite appeal being dismissed on the ground of laches, and the doctrine of merger will have no application and set aside the orders impugned therein and remanded the matter for adjudicating the issue de novo.

17. The judgments relied upon by the counsel for the respondents i.e. Chikki Costmetics Budhanpur (supra), M/s Arun Enterprises (supra) & M/s Yadav Steels (supra) has been held therein that that court below has no power to condone the delay in filing the appeal.

18. Similarly, the Hon'ble Apex Court in the case of Hongo India (P) Ltd. (supra) and the Karnataka High Court in the case of Director of Mines and Geology (supra) has held that delay i.e. beyond the period, cannot be condoned.

19. In the case in hand, the cancellation of registration order has been passed without application of mind as no reason has been assigned in the impugned order dated 08.08.2023. However, the Division Bench of this Court has categorically held that if no reason has been given for cancelling the registration, doctrine of merger will not apply and therefore, the judgment relied upon by the counsel for the respondents in the case at hand, are of no aid to them.

20. The present case is similar to one Surendra Bahadur Singh (supra), Namo Narayan Singh (supra) & Ashok Kumar Vishwakarma (supra); wherein the appeal

was dismissed as barred by limitation under Section 107 of the GST Act. After considering the original order, set aside the same being without any reason and allowed the petitioner therein to file reply to the show cause notice and further directed the authority concerned to proceed de novo.

21. In view of the above facts and circumstances of the case as well as law down in the aforesaid judgments cited by the counsel for the petitioner, the impugned orders cannot sustain in the eyes of law and the same are hereby set aside."

12. The record shows that the impugned order has been passed without application of mind and same does not satisfy the test of Article 14 of the Constitution of India.

13. In view of the aforesaid facts and circumstances of the case as well as law laid down by this Court as referred herein above, the impugned orders cannot be sustained in the eyes of law and same are hereby quashed.

14. The writ petition is allowed.

15. The matter is remanded to the adjudicating authority, who shall issue fresh notice to the petitioner mentioning the reason of the proposed cancellation of registration within a period of one week from the date of production of certified copy of this order. The petitioner is directed to submit its reply within 21 days after receipt of the notice and after submitting the reply within time, the adjudicating authority shall pass reasoned and speaking order, within a period of two weeks thereafter, after affording due opportunity of hearing to the petitioner.

Order Date :- 30.04.2025 Rahul Dwivedi/-