



2025:AHC:177523

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 1915 of 2025

M/S Implex Infrastructure Pvt Ltd And Another

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Nishant Mishra, Parinita Gupta
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Shri Nishant Mishra, along with Shri Prem Kandpal, learned counsel for the petitioner and learned ACSC for the State - respondents.

2. The instant writ petition has been filed against the impugned order dated 31.03.2025 passed by the respondent no. 3 as well as the impugned order dated 16.05.2023 passed by the respondent no. 4.

3. Learned counsel for the petitioner submits that the petitioner is a private limited company engaged in the business of real estate. He submits that a show cause notice was issued to the petitioner on 12.04.2023 for cancellation of registration on account of failure to furnish the returns for a continuous period of six months and thereafter vide ex- parte order dated 16.05.2023, the registration of the petitioner has been cancelled on the ground that previous returns have not been filed by the petitioner. The petitioner has challenged the order in appeal before respondent no. 2, which has been dismissed on the ground of limitation vide order dated 31.03.2025.

4. Learned counsel for the petitioner submits that the impugned orders have been passed in violation of principles of natural justice and also in violation of fundamental right under Article 19 (1) (g) of the Constitution of India.

5. In support of his submission, learned counsel for the petitioner has relied upon the judgment of Division Bench of this Court in ***M/s M Y Ent Bhatta Vs. State of U.P. & Another*** [Writ Tax No. 546/2025, decided on 13.05.2025] as well as the judgements of this Court in ***Surya Associates Vs. Union of India*** [(2024) 25 Centax 190 (All.)] and ***One Place Infrastructure***

Vs. State of U.P. [(2025) Centax 372 (All.)].

6. Per contra, learned ACSC supports the impugned orders.

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

8. The records shows that the petitioner is engaged in the business of real estate. On perusal of the record, it shows that the show cause notice was given for failure of filing of returns for previous quarters. A copy of notice dated 12.04.2023 is annexed as Annexure No. 4 of this writ petition and on perusal of the same, it shows that 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 in accordance with law. Further, the petitioner for the first time came to know about the cancellation in February, 2025. Once the impugned cancellation order has been passed without putting any proper notice or affording any opportunity of hearing to the petitioner, the same itself is in violation of principles of natural justice. 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.

9. 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.

10. 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 latches, therefore, the doctrine of merger will have no application.

11. 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 the Apex Court in the case of ***Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others***, 1998 (8) SCC 1.

12. 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.

13. 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.

14. 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.

15. The writ petition is allowed.

16. 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.

(Piyush Agrawal,J.)

October 7, 2025

Amit Mishra