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By Nidhi, Advocate



Judgment No.: 190
Dt.:21-01-2025



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Judgment Deals With

GST RC cancellation order cannot be passed for reasons mentioned beyond the show cause notice.	
Section/Rule	Rule 21A
Authority	Allahabad High Court
Case Name	M/s. Udai Associates VS State Of UP
Dated	09 th January, 2025
Citation	Writ Tax No. - 1174 of 2024

Brief facts of the case:

One of the partners, i.e., Smt. Pushpa Yadav, was diagnosed with cancer and her husband and son, being the other partners of the firm, were got involved in her treatment and therefore, the business was neglected, which resulted in non-filing of GSTR – 3B & GSTR 1 within the time limit as prescribed under the GST Act.

Thereafter, on 12.04.2023, a notice was issued for cancellation of the registration on the ground that the petitioner has failed to continuously furnish returns for a period of 6 months. The notice was issued through e-mail and as the other partners were involved in the treatment of Smt. Pushpa Yadav, they could not check e-mail.

Thereafter, vide impugned order dated 26.05.2023, the registration of the petitioner was cancelled.

The petitioner deposited the tax in the month of March, 2024 and filed returns till May, 2024 along with late fees and after deposit of tax, along with interest. Thereafter, on-line appeal was preferred on 30.05.2024, but the appeal of the petitioner has been dismissed vide impugned order dated 06.07.2024 on the ground of limitation.

Contention of the Petitioner:

The registration of the petitioner has been cancelled for the reason of Rule 21-A(2-A) of the Rules, while the notice for cancellation of registration has been issued on the ground that the petitioner has not filed returns continuously for the period of six months. Therefore, admittedly, the order cancelling the registration of the petitioner is beyond the show cause notice.

The petitioner uploaded its GSTR – 3B and GSTR – 1 returns with late fees prior to preferring appeal and therefore, the Department has failed to adjudicate the case on merits.

Cancellation of registration has serious consequence resulting in serious prejudice to the right and interest of the petitioner. Therefore, passing an order in gross violation of the principles of natural justice is clearly unsustainable in the eyes of law.

Findings and Decision of the Court:

The notice was given for cancellation of registration on the ground that the returns have not been filed continuously for 6 months; whereas, the order of cancellation of registration has been passed on a different ground that comparison of return as per Rule 21-A(2-A) is not possible, for which the petitioner was never put to any notice and therefore, the order of cancellation of registration is in gross violation of principles of natural justice, which cannot be sustained in the eyes of law.

Thus, the impugned order of cancellation of registration of the petitioner dated 26.05.2023 passed by the respondent no. 3 cannot be sustained in the eyes of law and the same was quashed.