

M/s Vaibhav Gopal Construction Private Limited and Another v. Union of India and Others; with M/s Lal Bahadur Yadav v. Union of India and Others

Case number: Civil Writ Jurisdiction Case No. 11874 of 2024, with CWJC No. 11941 of 2024

Citation: 2024(8) eILR(PAT) HC 4531

Decision date: 29 August 2024

GST registration cancellation, constitutional business rights and substantially delayed appeals

Court: High Court of Judicature at Patna

Bench: Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Partha Sarthy

Decision stage: Final common dismissal: registration cancellations and time-barred appellate rejections left undisturbed; constitutional challenge to Section 29(2) rejected in the circumstances, with substantive reasoning based on M.A. Rahman.

01 Facts of case and issues

Two registered businesses challenged cancellation for six consecutive months' non-filing and rejection of their delayed appeals. Vaibhav Gopal's registration was cancelled on 15 January 2021 after a 5 January notice. It attributed compliance failures to pandemic bereavements affecting its operational director and its consultant's default, and reported subsequently filing returns and depositing Rs. 27,36,058. The connected Lal Bahadur Yadav registration was cancelled on 14 January 2021.

Both invoked pandemic limitation orders and challenged Section 29(2) under Articles 19(1)(g) and 21. Vaibhav relied on Bombay's Rohit Enterprises. The source contains conflicting appeal dates; no reconstructed chronology is assumed.

Pinpoint: Paragraphs 1–5 and 13; physical pp. 4–7 and 11–12 (court pp. 2–5 and 9–10).

02 Discussion by Hon'ble Court

The Bench held that the appeals were substantially late even after considering Section 107's three-month period, further condonable month and pandemic relief. Neither petitioner used the 2023 restoration window. Vaibhav had not specified when its director resumed business or learned of cancellation; Lal Bahadur gave no valid explanation. The Court rejected the latter's mens rea argument because the relevant non-filing was undisputed.

The Court expressly disagreed with Rohit Enterprises' treatment of the constitutional freedom to trade as unconditional. Registration supported tax compliance, and continued registration depended on statutory observance. Applying the Constitution Bench decision in M.A. Rahman, it reasoned that a revenue-protecting cancellation mechanism was not unreasonable merely because it could extinguish a dealer's business. A fresh registration application remained possible.

The constitutional claim was characterised as an afterthought, but the judgment also supplies substantive reasons against it. Its refusal of Article 226 relief must be read with these facts and the prolonged default.

Pinpoint: Paragraphs 6–17; physical pp. 7–15 (court pp. 5–13).

03 Judicial decision and operative relief

The common judgment dismissed the writ challenge and declined interference with both cancellations and appellate rejections. Section 29(2) was not struck down. No restoration, remand, delay condonation, refund or costs direction was made. The observation about applying afresh was not an order requiring authorities to grant registration or preserving the former registration's benefits.

Pinpoint: Paragraphs 12 and 16–18; physical pp. 11 and 15–16 (court pp. 9 and 13–14).

04 In favour of

Union and tax authorities; both taxpayers failed to obtain restoration or relief against the delayed-appeal decisions.

Final High Court dismissal of both connected challenges, including the constitutional attack as presented. This is not a fresh adjudication of the correctness of a quantified tax demand. The reported Rs. 27,36,058 payment is not a refund award or a finding that all return obligations stood satisfied.

Pinpoint: Paragraphs 2, 13 and 16–18; physical pp. 5–6, 12 and 15–16.

05 AKHB REVIEW POINT

AKHB analysis: Preserve cancellation and communication records, return acknowledgments, payment receipts and evidence explaining every material period of delay. Payment alone does not revive registration. Examine revocation, appeal and any valid special scheme separately; record the distinct starting dates and conditions.

Do not convert this decision into a universal bar on writ jurisdiction or an automatic answer to every cancellation challenge. Its constitutional reasoning concerns compliance-based cancellation in the circumstances presented. Equally, fresh registration is not equivalent to restoration of historical status.

The judgment's thirty-day revocation reference and expired amnesty are historical, not current filing advice. Central Section 30 and Rule 23 were amended; use the applicable version and service date. The unexplained source-date conflicts also make its calendar calculations unsuitable as a deadline template. Check State-law amendments and portal evidence independently.

Pinpoint: AKHB commentary based on paragraphs 6–17; current-law and source qualifications below.

Sources and limitations

Relevant provisions

CGST Act 2017 and BGST Act 2017 Sections 29(2), 30 and 107; Constitution Articles 19(1)(g), 21 and 226. The Court refers to Articles 245, 246 and 265. Supplementary verification concerns CGST Sections 29–30 and 107, CGST Rule 23, Central Tax Notifications 03/2023, 23/2023 and 38/2023, and Article 19(6).

Statutory note

The cancellations arose in January 2021. The judgment describes Section 30's thirty-day regime. That is not the present Central-law text: Finance Act 2023 Section 141 replaced the statutory period with a prescribed time/manner/conditions formulation from 1 October 2023. Rule 23(1), amended by Notification 38/2023-Central Tax, paragraph 5, expressly effective 1 October 2023, provides ninety days from service and a possible further extension not exceeding 180 days for sufficient cause, with written reasons, by the Commissioner or the specified authorised senior officer. It is not an automatic 270-day entitlement. The return-filing/payment preconditions remain relevant. India Code also records a further prescribed-conditions proviso to Section 30(2), effective 1 November 2024. No retrospective reopening of these petitions is inferred.

Paragraphs 8, 11, 13 and 16 call the amnesty 'Circular No. 3 of 2023'. The verified Central instrument is Notification 03/2023-Central Tax dated 31 March 2023 under Section 148. It covered specified Section 29(2)(b)/(c) cancellations on or before 31 December 2022, subject to overdue returns and tax, interest, penalty and late-fee payment conditions. Its initial 30 June 2023 deadline became 31 August 2023 through Notification 23/2023 dated 17 July 2023. The window has expired.

Current Section 29(2)(c) refers to a prescribed continuous tax period; the six-month statutory wording was replaced from 1 October 2022. Section 107(1)/(4) retains the communication-based three months and further sufficient-cause month. Paragraph 10's Article 19(2) reference should not be repeated as the governing restriction provision: Article 19(6) addresses Article 19(1)(g). Nor should the Court's broad registration language be read as abolishing statutory thresholds or exemptions. These independently checked Central provisions do not certify a current Bihar consolidation.

The Supreme Court's 10 January 2022 order, paragraph 5, excludes 15 March 2020–28 February 2022 and provides a qualified ninety-day period from 1 March 2022, preserving a longer actual balance. Patna's stated calendar dates are its case-specific reasoning, not a universal limitation formula.

Treatment note

Checked 13 October 2026 through bounded searches of both party names, CWJC numbers, the judgment date and appeal/review/stay terms, including SCI and Patna official domains. No verified later appeal, review, stay or reversal of this common judgment was established. This is not an exhaustive citator or registry clearance. A February 2026 reporter-update lead proved to list the 2024 judgment, not a verified new ruling.

The main judgment expressly disagrees with Rohit Enterprises, (2024) 124 GSTR 503, while relying on the Constitution Bench reasoning in M.A. Rahman, [1962] 1 SCR 694. These are the Court's treatments, not a claim that Patna overruled Bombay or that the Supreme Court separately decided this GST controversy. Full official supplementary copies of those two cited decisions could not be fetched: Bombay and Calcutta official archive routes returned 502 responses. Their reasoning is used only as reproduced and discussed in this complete Patna judgment; independent full-text review of those authorities is not claimed.

Scope of source review

All sixteen physical pages of the main report fully read and individually visually inspected: editorial pages 1–2; complete common judgment pages 3–16, corresponding to court pages 1–14. Fresh official download compared with the preserved source: extracted text and rendered pixels match on all sixteen pages. Supplementary scoped review: Notifications 03/2023 and 23/2023, each one complete page read and inspected; Notification 38/2023, pages 1–2 read and inspected for identity and Rule 23 amendment, not its entire eighteen pages. Supreme Court pandemic order: pages 1–5 read, with pages 1 and 3–5 visually inspected for identity, paragraph 5 and date; the appended three-page record of proceedings is outside this supplementary review. India Code Central Act Sections 29–30 and 107 text and relevant amendment footnotes checked by web extraction at physical pages 41–42 and 85; download timed out and screenshot retrieval failed. Legislative Department Constitution English text of Article 19(1)(g), (2) and (6) checked by web extraction at physical pages 77 and 79 of its bilingual compilation. CBIC Rule 23 current indexed text was cross-checked against the official amending notification; its online commencement footnote is inconsistent with that notification, whose express 1 October 2023 date controls this note. No full current Bihar consolidation or full independent Rohit/Rahman review is claimed.

Source notes

Use CWJC 11874/2024 from the caption and running headers. Editorial page 1 instead says 11874/2023; paragraph 2 says 11874/2021. The connected matter is CWJC 11941/2024. The eILR string is the citation printed throughout this retained report, not a neutral citation; alternate indexed official report copies carry other eILR numbers and are not substituted. The signed date is 29 August 2024, with uploading date 9 September 2024.

Paragraph 2 records Vaibhav's appeal rejection on 16 April 2024, whereas paragraph 6 places its appeal filing on 17 May 2024. Paragraph 3 puts Lal Bahadur's appeal on 30 April 2024, but paragraph 7 says 13 June 2024. Paragraph 3 also prints the show-cause date as 28 December 2000. Paragraph 7's 'three years and one month' beyond the extended period does not align with its stated 2022/2024 dates. These are unresolved source inconsistencies, not silently corrected facts. The Court's conclusion of substantial delay is reported without selecting a reliable exact filing date or recalculating a deadline.

Vaibhav's assertion of later returns/payment in paragraph 2 must be distinguished from paragraph 13's finding that six-month non-filing was undisputed and filing of those returns unsubstantiated. No separate finding of complete post-cancellation compliance is invented. The final paragraph uses singular 'writ petition'; it concludes the common judgment covering both numbered matters. The original and fresh PDFs differ in hash and modification-date metadata, but all sixteen page text and pixel hashes match. Cryptographic digital-signature validation was not performed.

Primary source

Source description: Complete official eILR report: two editorial pages followed by the fourteen-page common judgment. Exact original retained; freshly downloaded official report matches every extracted page and rendered page image.

Official source: [Open source document](#)

Source pages: 16

Judgment author: K. Vinod Chandran, Chief Justice

Outcome type: final high court dismissal

Additional source

CGST Act, India Code current compilation accessed 13 October 2026

Official source: [Open source document](#)

Pinpoint: Sections 29–30, physical pages 41–42; Section 107(1)/(4), physical page 85. Pertinent web-extracted text and amendment footnotes checked; not a Bihar consolidation.

Notification 03/2023-Central Tax, 31 March 2023

Official source: [Open source document](#)

Pinpoint: Complete one-page notification: eligible cancellations, conditions, original deadline and explanation.

Notification 23/2023-Central Tax, 17 July 2023

Official source: [Open source document](#)

Pinpoint: Complete one-page notification: substitutes 31 August 2023 for 30 June 2023, deemed effective 30 June 2023.

Notification 38/2023-Central Tax, 4 August 2023

Official source: [Open source document](#)

Pinpoint: Pages 1–2; paragraph 5 expressly amends Rule 23(1) from 1 October 2023. Targeted review only.

In Re: Cognizance for Extension of Limitation, Supreme Court order of 10 January 2022

Official source: [Open source document](#)

Pinpoint: Paragraph 5(I)–(IV), physical pages 3–4; identity and date at pages 1 and 5.

Constitution of India, Legislative Department bilingual compilation

Official source: [Open source document](#)

Pinpoint: English Article 19 text, physical pages 77 and 79 (printed English pages 10–11): Article 19(6), rather than 19(2), concerns subclause (1)(g). Targeted web-text review.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the full judgment and applicable law, verify current appellate orders and obtain case-specific professional advice before acting.

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Source checked: 13 October 2026

Reserved date: Not stated; oral judgment