IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4027 of 2022

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Sudhir Kumar Jha @ Sudheer Kumar Jha Son of Babu Narayan Jha Resident of Village - Benipur, Anchal - Benipur, P.S. - Bahera, District- Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar Through the Principal Chief Commissioner, State Tax, Bihar, Patna.
2. The Principal Chief Commissioner, State Tax, Bihar, Patna.
3. The Chief Commissioner State Tax, Bihar, Patna.
4. The Additional Commissioner State Taxes, Patna west Division, Patna.
5. The Joint Commissioner State Tax, Patna South Circle, Patna.
6. The Deputy Commissioner State Taxes, Patna South, Bihar, Patna.
7. The Assistant Commissioner State Tax, Patna Central Circle, Patna.
8. The Branch Manager State Bank of India, Benipur Branch, Darbhanga.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar
For the Respondent/s	:	Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-03-2022

Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

> "i. For setting aside undated order passed by the Assistant Commissioner, State Taxes, Patna South Circle, Patna u/s 73(9) of the Bihar Goods and Services Tax Act, 2017, whereby tax, interest for the month of OCT 2019 has been imposed in gross violation of principle of natural justice as also in violation of Section 73(8) of the Bihar Goods and Sevices Tax Act, 2017 as notice u/s 73(1) was issued on 05.01.2021 giving time only up till 22.01.2021 for submission of reply, whereas 30 days notice is a mandatory requirement of law, as has been observed by this Hon'ble Court vide judgment dated 28.10.2021, passed in CWJC No. 3374/2020.
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> ii. For setting aside consequential Demand in DRC 07 10.02.2021 which has been passed on the basis of aforementioned order u/s 73(9) of the Bihar Goods and Services Tax Act, 2017."

Undisputedly, minimum statutory period of 30 days mandated under the provisions of Section 74(A) of CGST/BGST Act, 2017 was not afforded to the petitioner for making payment due and prior to the expiry of 30 days, the assessing officer proceeded to pass the order, ex parte in nature. The notice dated 05.01.2021 (Annexure-1) directed the petitioner to file reply on 22.01.2021 which was not within the prescribed period of 30 days. It is the mandate of law that 30 days' period has to be afforded to the parties, which was not done in the instant case.

As such, on this ground alone, we quash the notice dated 05.01.2021 (Annexure-1) as also the order of assessment dated 10.02.2021 (Annexure-3) with the direction to the assessing officer to issue a fresh notice in the light of the statutory provisions and pass an appropriate order in accordance with law. All proceedings be positively complied with in these matters.

Sri Vikash, states that direction be issued to the petitioner to make himself available before the Assessing Authority.

Request is accepted.

Petitioner undertakes to appear before the Assessing

Authority on 28.03.2022 at 10:30 am.

Petitioner further undertakes to fully co-operate in such proceeding and not take unnecessary adjournment.

Assessing Authority shall take a decision on the petitioner's request within a period of four weeks thereafter.

Petition stands allowed.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/sanjay-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA