IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4267 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.-Behera, District-Darbhanga.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Bihar, Patna.
3. The Superintending Engineer, Rural Works Department, Work Circle, Darbhanga.
4. The Executive Engineer, Rural Works Department, Work Division Benipur.
5. The Principal Chief Commissioner, State Tax, Bihar, Patna.
6. The Deputy Commissioner, State Tax, 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, Advocate
		Mr. Santosh Kumar, Advocate
		Mr. Yogesh Kumar, Advocate
		Mr. Ayush Kumar, Advocate
		Mr. Kanisk Kaustubh, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-04-2022

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

> "i. For setting aside final order dated 10.02.2022 passed by the Assistant Commissioner, State Taxes,

Patna South: Patna West Circle, Bihar, Patna u/s 73(9) of the Bihar Goods and Services Tax Act, 2017, for the period March, 20-March, 20 whereby tax, interest and penalty for the month of March, 2020 has been imposed in gross violation of principle of natural justice as also in violation of Section 73(8) of the Bihar Goods and Services 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.3374/2021

ii. For setting aside consequential Demand in DRC 07 Dated 10.02.2021 and also for setting aside consequential DRC 13 dated 26.02.2022 regarding attachment of the account of petitioner which has been passed on the basis of aforementioned order u/s 73(9) of the Bihar Goods and Services Tax Act, 2017.

iii. For any other relief for which the petitioner may be deemed entitled to."

As orally prayed for, petitioner is permitted to make necessary correction in the parentage and address of the petitioner.

Prayer allowed.

Registry is directed to make necessary correction in the memo. of parties, both on the physical as well as digital files.

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 within the 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-2) 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.

Petitioner undertakes to fully co-operate.

Petition stands allowed

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-DKS

AFR/NAFR	
CAV DATE	
Uploading Date	11.04.2022
Transmission Date	