IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4330 of 2022

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Devendra Sah Son of Rajendra Prasad Sah Resident of Raghunathpur, Ward No.2, Supaul, Raghunathpur Bihar, District-Supaul.

... ... Petitioner/s

Versus

1. The Union of India through the Principal Chief Commissioner of Central Tax, Government of India, New Delhi.
2. The Principal Commissioner of Central Tax, Government of India, New Delhi.
3. The Commissioner Central Tax, Government of India, New Delhi
4. The State of Bihar through the Principal Chief Commissioner, State Tax, Bihar, Patna.
5. The Chief Commissioner, State Tax, Bihar, Patna.
6. The Assistant Commissioner of State Tax Supaul Purnea.
7. The Deputy Commissioner Supaul Circle, Supaul.
8. The Additional Commissioner (Appeal) Purnea Division, Purnea.

... ... 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 Mr. Anshuman Singh, Sr. SC, CGST & CX

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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 the order dated 08.03.2020, passed by the Assistant Commissioner, State Tax Supaul Circle, Supaul, for the month of July 2018 whereby the tax, interest and penalty has been imposed upon the

petitioner u/s 73 of the Bihar Goods and Services Tax Act, 2017 even without giving 30 days statutory time mentioned in Section 73, sub-clause (8) of the Bihar Goods and Services Tax Act, 2017 as well as in gross violation of Principle of Natural Justice as the last date for submission of reply was 11.03.2020, whereas the final order was passed on 08.03.2020 itself.

ii. For setting aside the Consequential DRC 07 Dated 08.03.2020 for Rs. 2289790.10

iii. For setting aside the order dated 05.07.2021, passed by Additional Commissioner (Appeal) State Taxes, Purnea Division, Purnea as contained in Memo No. 516 dated 05.07.2021, whereby the appeal filed by the petitioner was rejected ex-party without hearing to the petitioner.

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

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 11.02.2020 (Annexure-1) directed the petitioner to file reply on 11.03.2020 whereas the final order was passed on 08.03.2020 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. Against the final order dated 08.03.2020, the petitioner preferred an appeal which was rejected ex parte without considering the contentions raised in the appeal.

As such, on this ground alone, we quash the notice dated 11.02.2020 (Annexure-1), the order of assessment dated 08.03.2020 (Annexure-2) as also the appellate order dated 05.07.2021 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/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.04.2022
Transmission Date	