IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5050 of 2022

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M/s Eastmen Auto and Power Limited Address- Khata No. 890, Plot No.-526, P.S.- Gopalpur, Block- Sampatchak, District- Patna 800001 through its Proprietor Akhilesh Kumar, aged about 55 years, Male, Son of Janak Singh, Resident of Samaspur Nandu Bigha, District- Gaya.

... ... 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 Joint Commissioner, State Tax, Patna South Circle, Patna.
7. The Assistant Commissioner of State Tax, Patna South Circle, Patna.
8. The Deputy Commissioner State Tax, Patna South Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Advocate
		Mr. Yogesh Kumar, Advocate
		Mr. Santosh Kumar, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, CGST & CX
		Mr. Sriram Krishna, Advocate
		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 : 25-04-2022

Heard learned counsel for the parties.

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

i. For setting aside the Ex-Party order dated 24.05.2019 passed by the Joint Commissioner State Tax, Patna South Circle, Patna whereby petitioner's application u/s 140 read with Rule 117 of the Bihar Goods and Services Tax Act, 2017 was rejected with respect to credit claim of Rs. 34,58,467/- under TRAN 1 on the ground that the petitioner did not submit evidence books of account and other details.

ii. For setting aside the order dated 20.08.2019, passed by the Joint Commissioner, State Tax, Patna South Circle, Patna u/s 73 (9) of the Bihar Goods and Services Tax Act, 2017 whereby tax, interest and penalty of Rs. 47,89,979.56/- was imposed.

iii. For quashing consequential DRC 07 dated 20.08.2019 for Rs. 47,89,979.56/- for the period October, 2017 – October, 2017 with respect to TRANSIT Credit Claim in TRAN 1.

iv. For setting aside the DRC 13 issued by the Assistant Commissioner State Tax Patna South Circle, Patna whereby a letter has been written to the Branch Manager, State Bank of India for attachment of account of the petitioner.

v. 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 01.06.2019 (Annexure-2) directed the petitioner to file reply on 10.06.2019 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 01.06.2019 (Annexure-2) as also the order of dated 20.08.2019 passed by the Joint Commissioner of State Tax, Patna South Circle, Patna (Respondent No. 6) in Reference No. ZA1008190012690 as also the summary of the order in GST DRC-07 dated 20.08.2019 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	28.04.2022
Transmission Date	