IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11508 of 2022

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M/s Raj Laxmi Sales Agency having its registered office at 39, Raghuvansh Market, Exhibition Road, Patna, Bihar- 800001 through its Proprietor namely Raj Kumari Singh @ alias Raj Kumari Devi, Female aged about 46 years, Wife of Ram Pukar Singh, Resident of New Bypass, New Jaganpura, Sampatchak, Patna- 800027.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Assistant Commissioner of State Tax, North Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar Singh, Advocate
For the Respondent/s	:	Mr.Vivek Prasad (GP7)

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-08-2022

Petitioner has prayed for the following relief(s):

> "a) For issuance of writ in the nature of certiorari for quashing of the order dated 19.02.2022 and summary of order in Form GST DRC – 07 dated 19.02.2022 issued under section 73(9) of The Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the BGST Act) and

u/r 142(5) of the Bihar Goods and Services Tax Rules, 2017 (hereinafter referred to as the BGST Rules);

b) For further restraining the respondents from taking any coercive action against the petitioner for recovery of the amount of tax, interest and penalty in terms of the impugned order passed by the respondent number 3 of the present writ application;

c) For further holding and a declaration that mere absence of auto populated GSTR – 2A resulting in mismatch with the return filed by the petitioner in form GSTR – 3B cannot deprive the petitioner from the benefit of input tax credit;

d) For further holding and a declaration that the provision of section 16(2) and rule 36 of the central goods and services tax rules, 2017 nowhere restricts the right to avail input tax credit with respect to a particular month in the same month itself rather the provision of section 16(4) of the central act 2017 and Bihar act 2017 permits the availability and utilization of input tax credit for the past financial year till the due date of filing of returns for the month of September of the following financial year;

e) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

After the matter was heard for some time, finding the Court not in favour of the submissions made by the learned counsel for the petitioner, learned counsel for the petitioner, under instructions, states that the petitioner shall be content if the petitioner is permitted to withdraw the present petition, with liberty to initiate appropriate proceedings before the appropriate forum and to take recourse to such other alternate remedies which are equally efficacious in law. It is stated that the petitioner has already preferred an appeal assailing the impugned order dated 19.02.2022.

Statement accepted and taken on record.

Prayer allowed.

The petition is disposed of as withdrawn with the liberty aforesaid.

We only hope and expect the Appellate Authority to decide the appeal expeditiously and within a period of three months from the date of presentation of a copy of this order.

Liberty reserved to the petitioner to take recourse to such other remedies as are otherwise available in accordance with law.

It stands clarified that all issues of fact and law are left open to be agitated by the competent authority.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	18.08.2022
Transmission Date	