IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23168 of 2019

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M/s Gaya Marketing a proprietorship concern having its place of business at Ramna Road, P.S.- Kotwali Gaya through its proprietor Sethi Pharma Pvt. Ltd. a registered company having its registered office at Tekari Road, P.S.- Kotwali, Gaya- 823001 represented by Shri Prakash Chand Jain male aged about 75 years son of Ladu Lal Jain resident of 78 Gopi Bhawan, Makhan Toli, Bazaza Road, P.S.- Kotwali, Gaya- 823001.

... ... Petitioner/s

Versus

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

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate

For the Respondent/s : Mr.Vikash Kumar (SC-11)

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

Date : 25-07-2022

Heard learned counsel for the parties.

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

> “ a) For issuance of a writ in the nature of certiorari for quashing of the order dated 26.09.2018 passed by the respondent no. 3 bing illegal and without jurisdiction in terms of Section 39, 46, 47 and 50 of the Bihar Goods and Service Tax Act, 2017 (hereinafter referred to as the Act for short);
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> b) For issuance of a writ in the nature of certiorari for quashing of the notice of demand in form DRC-

07 dated 03.10.2018 under the act issued by the respondent no. 3 in consequence of the impugned order of interest.

c) for holding and a declaration that the impugned order and the consequential notice of demand issued upon the petitioner suffers from violation of the principles of natural justice and also violative of the statutory provision of section 46 of the act whereby and in light of which the respondent number 3 was obliged to issue a notice upon the petitioner in form GSTR- 3A seeking filing of the returns within a period of 15 days and it is upon failure of the petitioner in terms of such notice that any action could have been taken uner the provisions of the act is so applied.

d) For further holding and a declaration that no liability of interest under section 50 of the act could be attracted in the case of the petitioner when there is no tax liability at all is due (neither admitted tax nor any demand of tax is due) for the period in question that is the moth of September 2017 till the month of June 2018 and as such the entire action of respondent number 3 suffered from jurisdictional error;

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

Learned counsel for the petitioner prays that the instant petition be disposed of exactly in the same terms as contained in judgment dated **14.01.2020** passed by a co-ordinate Bench of this Court in **C.W.J.C. No. 23797 of 2019,** titled as **M/s Gaya Marketing Vs. The State of Bihar & Ors.**

No objection to such prayer being allowed.

As mutually agreed, the instant petition stands disposed of in terms of judgment dated **14.01.2020** passed by a co-ordinate Bench of this Court in **C.W.J.C. No. 23797 of 2019,** titled as **M/s Gaya Marketing Vs. The State of Bihar & Ors.**, and the directions contained therein shall also govern the instant case *mutatis mutandi*.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

veena/rajiv-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	