IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.877 of 2023

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Aditya Ceramics, a partnership firm having address at 706, Surya Vihar Apartment, Exhibition Road, Police Station- Gandhi Maidan, District- Patna, through its Partner namely Sushil Kumar Pansari, male, aged abouty 50 years, son of Binod Kumar Pansari, resident of Pushp Vihar Apartment, Exhibition Road, Police Station- Gandhi Maidan, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary-cum-Commissioner of State Tax, Bihar having its office at Vikas Bhawan, Bailey Road, Patna.
2. The Additional Commissioner of State Tax (Appeal), Patna West Division, Patna.
3. The Assistant Commissioner of State Tax, Gandhi Maidan Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Parijat Saurav, Advocate

For the Respondent/s : Mr.Vivek Prasad (GP-7)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-04-2023

The assessment order under Section 62 of the Bihar Goods & Service Tax Act, 2017, which is challenged in the above writ petition, was passed on 11.09.2019 and is annexed as Annexure-1. An appeal was filed, which was delayed beyond the time provided under Section 107(4) of the Bihar Goods and Services Tax Act, 2017 and hence, the same also stood dismissed on 25.08.2022 (Annexure-4). The petitioner is before this Court challenging the assessment order under Article 226 of the Constitution of India, which is not permissible.

However, we notice Notification No. 06/2023 dated 31.03.2023 brought out by the Central Government on the recommendations of the GST Council, which is reproduced as herein below:-

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS

NOTIFICATION
NO. 06/2023 – CENTRAL TAX

New Delhi, the 31st March, 2023

S.O.....(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies that the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of section 62 of the said Act, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely,-

(i) the registered persons shall furnish the said return on or before the 30th day of June 2023;

(ii) the return shall be accompanied by payment of interest due under sub-section (1) of section 50 of the said Act and the late fee payable under section 47 of the said Act,

irrespective of whether or not an appeal had been filed against such assessment order under section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.

[F. No. CBIC-20013/1/2023-GST]

(Alok Kumar)
Director

In the context of the above notification, a return can be filed in accordance with it, in which circumstance, the assessment has to be redone.

We dispose of the writ petition giving liberty to the petitioner to comply with the above notification.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	25.04.2023
Transmission Date	