

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3161 of 2023

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Bhardwaj and Brothers a proprietorship firm having its place of business at Bihta- Lai Road, Lai Bihta, P.S.- Bihta, Dist.-Patna, Bihar through its authorized representative namely Sanmay Bhardwaj, aged about, 41 years, Gender- Male, S/o Niranjana Kishore Prasad Singh residence of Murgiyachak, Panch-Raghopur, Village- Raghopur, Block- Bihta, P.S.- Bihta, Dist.- Patna, Bihar, 801103

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Taxes (Appeals), Patna West Division, Patna.
3. The Assistant Commissioner of State Taxes, Danapur Circle, Danapur, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP-7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-07-2023

The petitioner challenges the *ex parte* order of the appellate authority at Annexure-2.

2. Though the appeal was filed in time but the appellate authority merely for the reasons that despite opportunity being granted to the appellant to produce the documents in support of his case, he sought time and did not produce the same, rejected the appeal.



3. We have already held in **Purushottam Stores vs. The State of Bihar & Ors; CWJC No. 4349 of 2023** decided on 25.04.2023; looking at the provisions of the Bihar Goods and Services Tax Act especially sub-sections (8), (9), (10), (11) and (12) of Section 107 of the Act, that the Appellate Authority has a duty and an obligation under the statute to look into the merits of the matter and also examine the grounds raised by the appellant and decide the issue on merits. The Appellate Authority even while considering the appeal *ex parte* will have to consider the grounds raised in the memorandum of appeal, deciding the appeal on merits, failing which it would be abdicating its powers especially looking at the provisions where the Appellate Authority has been empowered to conduct such further enquiry as found necessary to decide the appeal, which decision also shall be on the points raised.

4. We, hence, set aside the order produced at Annexure-2 and direct the restoration of appeal before the Appellate Authority.

5. The petitioner shall appear before the Appellate Authority on 07.08.2023. The Appellate Authority or its office shall fix a date of hearing on the said date, with due acknowledgment taken from the appellant; if the date of



hearing is issued from the office, proceed with the hearing on the date fixed and dispose of the appeal on merits within three months from the date of last hearing. We also direct the petitioner to cooperate in the hearing of the appeal and even if there is absence of the appellant or his authorized representative on the date of hearing, the Appellate Authority shall consider the appeal on merits and pass a speaking order.

6. The writ petition stands allowed with the above direction.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sharun/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	26.07.2023
Transmission Date	

