

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5066 of 2023

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Ganga Construction Company through the Proprietor Sanjeev Kumar Singh,
Male, aged about 56 years, Son of Rajeshwari Prasad Singh, Resident of ward
No. 28, Lohianagar, Suhird Nagar, Begusarai, Begusarai, Bihar-851101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Taxes, New Secretariat, Bihar, Patna.
2. Joint Commissioner, State Taxes, Begusarai Circle, Begusarai.
3. Additional Commissioner, State Taxes, Begusarai Circle, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Archana Sinha @ Archana Shahi

For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-04-2023

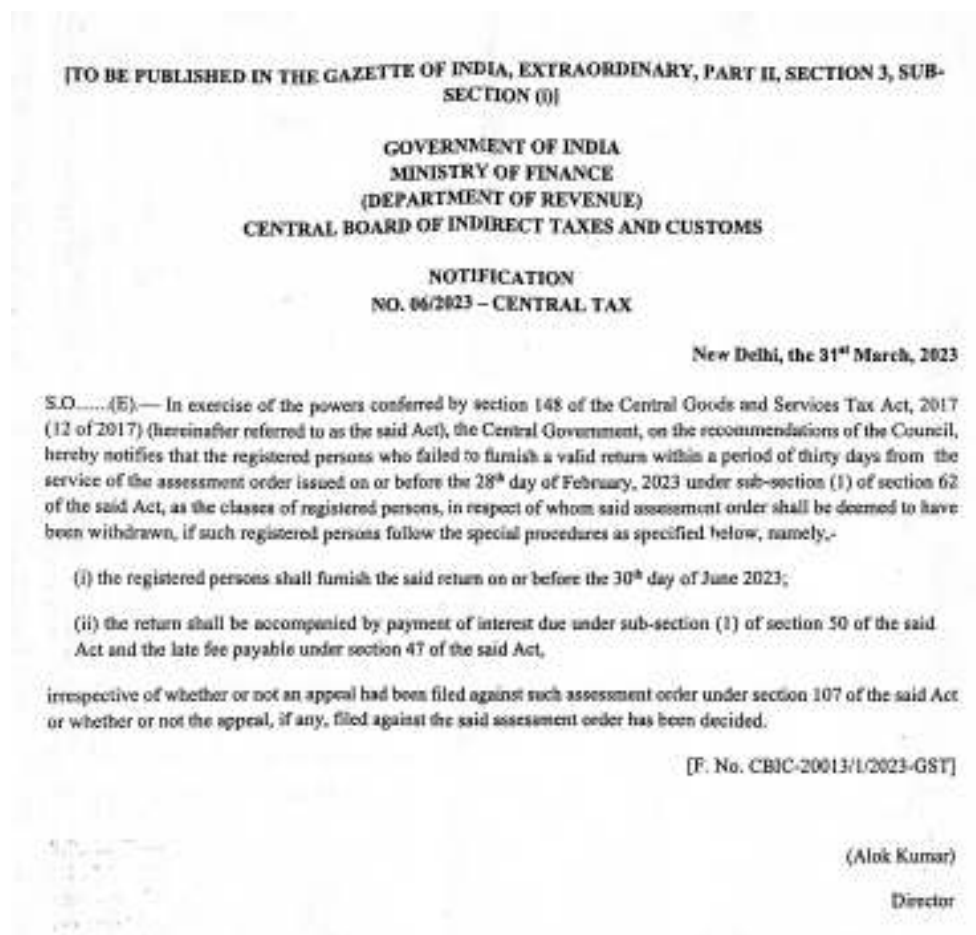
The petitioner is concerned with the assessment order passed on 06.08.2019, which is produced as Annexure-2 in the writ petition. As per Section 62 of the Bihar Goods and Services Tax Act, 2017 (“BGST Act”



hereafter) where a registered person fails to furnish the return under Section 39 or Section 45, even after the service of a notice under Section 46, the proper officer is empowered to assess the tax liability to the best of his judgment, within a period of five years from the date specified under Section 44 for furnishing of the annual return. Sub-section (2) of Section 62 also provides that when such an assessment order is made, if the registered person furnishes a valid return within thirty days of the service of the assessment order then the assessment order will stand withdrawn but the liability for payment of interest under sub-section (1) of Section 50 and the liability to late fee under Section 47 would continue.



The petitioner obviously did not comply with sub-section (2) of Section 62 by filing a return within one month of the issuance of the assessment order. Now, the Government of India has on the recommendation of the GST Council, brought out the following notification:-



Learned counsel for the petitioner submits that in accordance with the notification, a return has been filed and the liability to interest and late fee also satisfied. Definitely, the Assessing Officer would be entitled to verify whether



there is due compliance under the notification, herein above
extracted, and if the compliance is in accordance with the
notification, the assessment order would stand withdrawn.

The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

M.E.H/uttam/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2023
Transmission Date	NA

