# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.5838 of 2023**

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Bhavani Automobiles having its registered office at Darbhanga - 846003, Bihar through its Proprietor Shrawan Kumar Thakur, Male (aged about 41 years), S/o Shree Laxman Thakur, Resident of Majhoura, P.O. Bahera, Benipur Nagar Parishad Dist. Darbhanga 847201, Bihar.

... ... Petitioner/s

Versus

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

... ... Respondent/s

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with

**Civil Writ Jurisdiction Case No. 5840 of 2023**

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Bhavani Automobiles having its registered office at Darbhanga- 846003, Bihar through its Proprietor Shrawan Kumar Thakur, Male (aged about 41 years), S/o Shree Laxman Thakur, Resident of Majhoura, P.O.- Bahera, Benipur Nagar Parishad Dist.- Darbhanga 847201, Bihar.

... ... Petitioner/s

Versus

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

... ... Respondent/s

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with

**Civil Writ Jurisdiction Case No. 6173 of 2023**

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Bhavani Automobiles having its registered office at Darbhanga- 846003, Bihar through its Proprietor Shrawan Kumar Thakur, Male (aged about 41 years), S/o Shree Laxman Thakur, Resident of Majhoura, P.O. Bahera, Benipur Nagar Parishad Dist. Darbhanga 847201, Bihar.

... ... Petitioner/s

Versus

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

... ... Respondent/s

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**Appearance :**
(In all the cases)
For the Petitioner/s : Mrs. Manju Jha, Advocate
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 : 01-05-2023**

The petitioner relies on an amendment made to the Bihar Goods and Services Tax Act, 2017 by the Bihar Goods and Services Tax (Amendment) Act, 2021 specifically to Section 50 which is available in Section 6 of the Amendment Act.

It is the specific case of the petitioner that if the proviso in Section 50 was considered for the assessment years 2017-18, 2018-19 and 2019-20, definitely no interest could have been charged on the petitioner, as is revealed from the impugned orders. We see from the amendment that the proviso was incorporated by way of a substitution with effect from 1st of July, 2017 which takes in the relevant assessment years of the petitioner also, i.e. 2017-18, 2018-19 and 2019-20.

In the above circumstance of a retrospective amendment having coming into the Act, we are of the opinion that the Assessing Officer should reconsider the issue. We set aside the impugned orders claiming interest for the delayed filing of returns, only for the purpose of reconsideration by the Assessing Officer, based also on the proviso now substituted and the relevant circulars, if any. The matters shall be restored to the file of the Assessing Officer who shall consider the same after issuing notice to the petitioner.

With the above observations and directions, all the three writ petitions stand allowed.

**(K. Vinod Chandran, CJ)**

**(Madhuresh Prasad, J)**

Sunil/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | |
| **Uploading Date** | 04.05.2023 |
| **Transmission Date** | |