

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5387 of 2023

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Kumar Piyush Construction Pvt. Ltd. having its place of business in Flat Number 08, Block - 01, Arya Kumar Road, Rajendra Nagar, Patna, Bihar - 800016 through one of its directors namely Praphull Kumar male aged about 51 years son of Vishnu Deo Sinha resident of Near Canara Bank, Bichli Khandak Par, Nalanda - 803101.

... .. 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 East Division, Patna.
3. The Joint Commissioner of State Taxes, Kadam Kuan Circle, Patna. (August - 2019).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, 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 : 24-04-2023

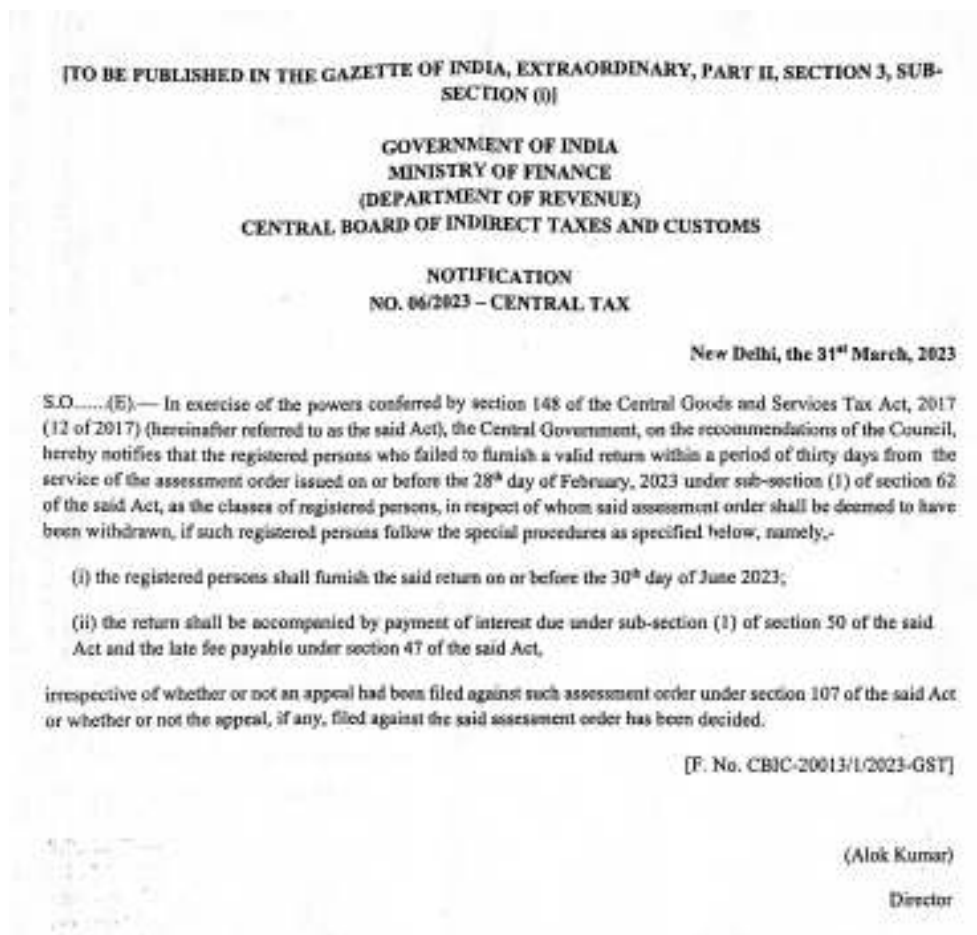
The petitioner is concerned with the assessment order passed on 12.10.2019, which is produced as Annexure-2 in the writ petition. As per Section 62 of the Bihar Goods and Services Tax Act, 2017 ("BGST Act" hereafter) where a registered person fails to furnish the return under Section 39 or Section 45, 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furnishes a valid return within thirty days of the service of the assessment order then the assessment order will stand withdrawn but the liability for payment of interest under sub-section (1) of Section 50 and the liability to late fee under Section 47 would continue.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)

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Uploading Date	
Transmission Date	

