IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4791 of 2023

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M/s Chandan Kumar Singh (a Sole Proprietorship Firm) having its Registered Office at-Colony No.1, Durga Sthan, P.S.-Katihar Sadar, District-Katihar through its Sole Proprietor Mr. Chandan Kumar Singh, aged about 55 Years, S/o-Mr. Ganesh Prasad Singh.

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Finance, Department of Revenue, having its Office at Room No. 46, North Block, P.O. and P.S. North Block, P.O. and P.S. North Block, New Delhi-110001.
2. The Chief Commissioner, CGST and CX, Office at -C.R. Building, 1st Floor, Bir Chand Patel Path, Patna, Bihar.
3. The State of Bihar through Commissioner BGST, New Secretariat, Patna.
4. Joint Commissioner of State Tax, Katihar Circle, Distirct-Katihar.
5. Deputy Commissioner of State Tax, Katihar Circle, Distirct-Katihar.
6. Assistant Commissioner of State Tax, Katihar Circle, Distirct-Katihar.
7. Additional Commissioner (Appeal) of State Tax, Purnea Division, Purnea.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anurag Saurav, Advocate
For the Union of India	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr.Vikash Kumar, S.C. 11
		Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-04-2023

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 18.12.2019 and is annexed as Annexure-2. An appeal was filed, which was dismissed for want of certified copy on 12.12.2020 (Annexure-7). 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 the 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	