IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7231 of 2023

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Ritesh Kumar Son of Jagdish Prasad, Resident of Dihpali, P.S.- Paliganj, Paliganj Patna (Bihar) PIN- 801110

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner Cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
2. The Assistant Commissioner of BGST, Danapur Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akrity Aishwarya, Advocate

For the Respondent/s: Mr. Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-05-2023

The above writ petition has been filed seeking a writ of certiorari against the order dated 11.08.2022, passed under Section-73 of the Bihar Goods and Services Tax Act, 2017.

It is the contention of the petitioner that the order was passed without giving prior opportunity to the petitioner and without affording a hearing; clearly a violation of the principles of natural justice. The petitioner, on the above contention, alleges that there is an apparent mistake in the petitioner having wrongly entered input tax credit (ITC), which can be cured with the revision of returns. The petitioner prays for an opportunity to revise the returns. It is also claimed that, if such a relief is not granted, then the tax authorities be directed to consider the amount entered in a different column as the actual amount of ITC. The petitioner also seeks a stay of the demand and withdrawal of the attachment of the bank accounts of the petitioner.

The petitioner obviously has not filed an appeal against the order which remedy is available under the BGST Act as per Section-107. In fact, the petitioner claims in the writ petition itself that after filing the returns, the petitioner had received a message from respondent No.2, the Assessing Officer, and on approaching him, he was told that nothing will happen due to the pandemic situation. It is also stated that thereafter in the order two notices dated 08.03.2022 and 15.03.2022 were referred to. The petitioner does not deny the same, but only says that if it was sent, he has not received it. It is also stated that the mobile number entered in the GST Portal of the petitioner belongs to the son of the petitioner, who was living in Patna and if the message had come in his mobile, it would have been deleted by his son.

In fact, the averments of the petitioner would indicate that he has been lax in following up on the notices issued by the Tax Authorities. The mobile number in which the messages come has been given by the petitioner to the Tax Authorities and he cannot claim ignorance on the ground that his son, who had the said mobile number, would have deleted the messages. This Court finds no reason to countenance the grounds taken by the petitioner or find that no notice was issued to him nor a hearing afforded; from the averments in the writ petition itself.

The extraordinary remedy under Article-226 does not inure to the benefit of the assesses, who are not diligent in raising their claims before the appellate authorities. The learned Government Pleader also specifically refers to Sub-Section(9) of Section-39, providing for the time within which any omission or incorrect particular noticed by an assessee in the return furnished can be rectified. The proviso under Section 39(9) clearly interdicts any prayer for rectification after the due date, inter alia of the actual date of furnishing of relevant annual return. The petitioner cannot invoke such remedy before this Court and the contention taken that there is no method by which omissions or mistakes can be rectified as per the Statute cannot be sustained. The remedy provided, however, has to be availed in the time provided, after which there could be no such rectifications carried out.

The writ petition, hence, stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

sharun/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.05.2023
Transmission Date	N/A