IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5801 of 2024

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M/s Greentech Auto LLP incorporated under the Limited Liability Partnership Act, 2008 having its office at Shop 3 and 4 Basement Arpan Complex Opp St. Michel School Digha Patna Bihar- 800011 through its Partner Mukesh Kumar Tiwari, MALE, Aged about 45 Years, S/o Manbodh Tiwary, Resident of - 16C, Seal Lane, Near Tangra Mini Bus Stand Tangra, District- Kolkata, West Bengal- 700015.

... ... 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, State Tax Patna West Circle, Patna.
3. The Joint Commissioner of Commercial State Taxes, Danapur, Circle 1, Patna West, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Deepak Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-08-2024

The petitioner is aggrieved with the rectification order dated 19.01.2024 produced in Annexure-5, which according to the petitioner was issued without any notice of hearing.

2. The learned Government Advocate on the other hand submits that the petitioner had claimed the input tax wrongly and on finding the same, it was reversed, thus raising a demand which as against the refund order earlier would have to be satisfied.

3. We see that the petitioner had in the writ petition taken a specific contention that no hearing was granted to the petitioner prior to the passing of the rectification order. We have looked at the orders passed on 18.01.2024 and 19.01.2024, which only speak of details having been collected from the assessee. There is no reference to a notice issued to the assessee in either of these orders; the first of which was rectified again by the second order dated 19.01.2024, wherein the tax demand was reduced considerably.

4. A counter affidavit has been filed wherein though the contention regarding violation of principles of natural justice for not affording an opportunity of personal hearing was specifically mentioned, nothing is stated as to whether an opportunity was provided to the petitioner.

5. Hence, on the ground of violation of principles of natural justice, we set aside the rectification order challenged in the above writ petition and direct the petitioner to appear before the Assessing Officer on 23.08.2024, treating Annexure-5 as a show-cause notice issued.

6. Written objections, if any, shall be filed as on 23.08.2024. The Assessing Officer shall personally intimate the date of hearing on 23.08.2024 with acknowledgment taken, to

the assessee or his authorised representative who appears before the Authority and conduct hearing and pass orders expeditiously.

7. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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