IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6327 of 2024

==

M/S Greentech Auto LLP incorporated under the Limited Liability Partnership Act, 2008 having its Office at Shop 3 and 4 Basement Arpana Complex Opp St. Micheal School Digha Patna Bihar 800011 through its Partner Mukesh Kumar Tiwary, Male, aged about 45 years, S/o Manbodh Tiwary, R/o 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

==

Appearance :

For the Petitioner/s : Mr.Deepak Kumar, Advocate

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

==

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-04-2024

The petitioner is before this Court alleging that Annexure-P-5 order was passed without affording an opportunity for personal hearing.

2. The learned Government Advocate submits that Annexure-P-5 is not an assessment order but an order seeking payment of the erroneous refund made by the department.

3. In any event, the allegation is of violation of principles of natural justice. Annexure-P-3 is a notice issued

which indicates the date of the personal hearing as ‘not applicable’. In the reply to the show-cause notice, produced as Annexure-P-4 the petitioner had specifically sought for personal hearing by ticking ‘Yes’ in the column of option for personal hearing. Annexure-P-5 order also indicates that there was no personal hearing afforded.

4. In such circumstances, Annexure-P-5 order dated 04.01.2024 is set aside only for violation of principles of natural justice. The petitioner shall appear before the officer on the 2nd of May, 2024, on which date either the hearing shall be conducted or the matter adjourned with notice to the petitioner and fresh order passed after hearing the petitioner. We make it clear that we have not made any observation on merits.

5. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	20.04.2024
Transmission Date	