IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9895 of 2024

Rajendra Prasad Yadav Son of Rajendra Prasad Yadav a proprietary concern having its office at Shastri Nagar, Munger, Bihar- 811201 through its authorized signatory Manish Kumar (Male) aged about 36 years son of Rajendra Prasad Yadav, resident of Road No. 1, Shastri Nagar, Munger, Bihar-811201.

... ... Petitioner/s

Versus

1. State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Dy. Commissioner of State Tax, Munger, Bhagalpur, Bihar.
3. Asst. Commissioner of State Tax, Munger, Bhagalpur, Bihar.

... ... Respondent/s

Appearance :
For the Petitioner/s : Mr. D.V. Pathy, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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

Date : 29-07-2024

1. The petitioner is aggrieved with Annexure P4 order of assessment for the year 2017-18, which assessment order was passed on 09.03.2024.

2. On the brief facts to be noticed, by Annexure P1, a show cause notice was issued under Section 74 of the Bihar Goods and Services Tax Act dated 29.09.2023 for the assessment year 2017-18. On the very next day i.e., 30.09.2023, another show cause notice was issued for the very same assessment year which is produced as Annexure P3. Annexure P3

notice was dropped by Annexure P2 dated 29.12.2023. Later Annexure P4 order was issued on 09.03.2024.

3. Learned Counsel for the petitioner submits that since the matter was dropped, the petitioner was not aware and he did not participate in the assessment and hence he may be given an opportunity. Admittedly, Annexure P1 notice was issued and by inadvertence since another notice was issued for the very same year on the very next day (Annexure P3), the latter notice was dropped as per Annexure P2. There is no reason to find that the petitioner was not aware of Annexure P1 notice. In such circumstances, we are not inclined to grant a remand as sought for by the learned Counsel for the petitioner.

4. However, it has to be noticed that Section 107 provides for an appeal within three months. The petitioner had approached this Court with a writ petition which was filed on 15.05.2024 within the three month period as provided in Section 107.

5. In such circumstances, we are of the opinion that the petitioner can be given an opportunity to file an appeal. The petitioner shall file an appeal within one month from the date on which the judgment in the writ petition is uploaded. The first appellate authority shall consider the same on merits without

looking at the delay since the same had occasioned only because the petitioner having challenged the assessment order in the writ petition.

6. The writ petition is allowed without any observation on the merits of the assessment.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	30.07.2024.
Transmission Date	