IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15151 of 2024

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New Indian Ent Udyoug (A Sole Proprietorship Firm), having its registered address at Biroul, Nagar Panchayat Jhanjharpur, Madhubani, Bihar 847236 through its sole proprietor Md. Nizamuddin Ansari, Male aged about 54 years S/O Md. Suleman Ansari R/O Nagar Panchayat Ward No 2 Jhanjharpur, Madhubani, Bihar 847236.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, has its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi- 110001.
2. The State of Bihar through the Commissioner of Commercial State Taxes, New Secretariat, Patna.
3. Assistant Commissioner of State Tax, Madhubani, Darbhanga, Bihar.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 15237 of 2024

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New Indian Ent Udyoug (A Sole Proprietorship Firm), having its registered address at Biroul, Nagar Panchayat Jhanjharpur, Madhubani, Bihar 847236 through its sole proprietor Md. Nizamuddin Ansari, Male aged about 54 years S/O Md. Suleman Ansari R/O Nagar Panchayat Ward No 2 Jhanjharpur, Madhubani, Bihar 847236.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, has its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi- 110001.
2. The State of Bihar through the Commissioner of Commercial State Taxes, New Secretariat, Patna.
3. Assistant Commissioner of State Tax, Madhubani, Darbhanga, Bihar.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 15241 of 2024

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New Indian Ent Udyoug (A Sole Proprietorship Firm) having its registered address at Biroul, Nagar Panchayat Jhanjharpur, Madhubani, Bihar 847236 through its sole proprietor Md. Nizamuddin Ansari, Male, aged about 54 years, S/o Md. Suleman Ansari, R/o Nagar Panchayat Ward No. 2 Jhanjharpur, Madhubani, Bihar 847236.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department

of Revenue, has its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi-110001.

2. The State of Bihar through the Commissioner of Commercial State Taxes, New Secretariat, Patna.
3. Assistant Commissioner of State Tax, Madhubani, Darbhanga. Bihar.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 15340 of 2024

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New Indian Ent Udyoug (A Sole Proprietorship Firm), having its registered address at Biroul, Nagar Panchayat Jhanjharpur, Madhubani, Bihar 847236 through its sole proprietor Md. Nizamuddin Ansari, Male aged about 54 years S/o Md. Suleman Ansari R/o Nagar Panchayat Ward No.2 Jhanjharpur, Madhubani, Bihar 847236.

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Finance, Department of Revenue, has its office at Room No. 46, North Block, P.O and P.S. North Block, New Delhi-110001.
2. The State of Bihar, through the Commissioner of Commercial State Taxes, New Secretariat, Patna.
3. Assistant Commissioner of State Tax, Madhubani, Darbhanga, Bihar.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 15449 of 2024

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New Indian Ent Udyoug (A Sole Proprietorship Firm), having its registered address at Biroul, Nagar Panchayat Jhanjharpur, Madhubani, Bihar 847236 through its sole proprietor Md. Nizamuddin Ansari, Male aged about 54 years S/O Md. Suleman Ansari R/O Nagar Panchayat Ward No 2 Jhanjharpur, Madhubani, Bihar 847236.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, has its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi- 110001.
2. The State of Bihar through the Commissioner of Commercial State Taxes, New Secretariat, Patna.
3. Assistant Commissioner of State Tax, Madhubani, Darbhanga, Bihar.

... ... Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 15151 of 2024)

For the Petitioner/s : Mr. Shashwat Pratyush, Advocate

		Mr. Sahil Kumar, Advocate
		Mr. Himanshu Shekhar Jha, Advocate
For the U.O.I.	:	Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr. Vivek Prasad, GP-7
(In Civil Writ Jurisdiction Case No. 15237 of 2024)		
For the Petitioner/s	:	Mr. Shashwat Pratyush, Advocate
		Mr. Sahil Kumar, Advocate
		Mr. Himanshu Shekhar Jha, Advocate
For the U.O.I.	:	Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr. Vivek Prasad, GP-7
(In Civil Writ Jurisdiction Case No. 15241 of 2024)		
For the Petitioner/s	:	Mr. Shashwat Pratyush, Advocate
		Mr. Sahil Kumar, Advocate
		Mr. Himanshu Shekhar Jha, Advocate
For the U.O.I.	:	Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr. Vivek Prasad, GP-7
(In Civil Writ Jurisdiction Case No. 15340 of 2024)		
For the Petitioner/s	:	Mr. Shashwat Pratyush, Advocate
		Mr. Sahil Kumar, Advocate
		Mr. Himanshu Shekhar Jha, Advocate
For the U.O.I.	:	Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr. Vivek Prasad, GP-7
(In Civil Writ Jurisdiction Case No. 15449 of 2024)		
For the Petitioner/s	:	Mr. Shashwat Pratyush, Advocate
		Mr. Sahil Kumar, Advocate
		Mr. Himanshu Shekhar Jha, Advocate
For the U.O.I.	:	Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	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 : 30-10-2024

The petitioner has filed the above writ petitions challenging the order passed under Section 73 of the Bihar Goods and Services Tax Act, 2017 for five Assessment Years 2021-22, 2022-23, 2018-19, 2020-21 and 2019-20 respectively.

2. The contentions taken are one of limitation and the other of sufficient opportunity having not been granted.

3. Insofar as the first contention is concerned, the

learned Government Advocate submits that there are Circulars issued extending the date of filing of return and also the date of limitation. The learned Counsel also refers to the judgment of the Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020**, In Re: Cognizance For Extension of Limitation.

4. We see that the Circulars have not been challenged at all.

5. The next contention is with respect to the orders having been passed before the time for filing a reply has expired. In all the assessment years, the show-cause notices were issued, as is seen from Annexure-2 produced in all the writ petitions, on 09.11.2023. The time granted for filing a reply was upto 09.12.2023. The order was passed on 06.12.2023, as is evident from Annexure-P/4 produced in all the writ petitions.

6. In such circumstances, even before the time for filing a reply had expired, the order was passed also without giving an opportunity for personal hearing, which is a mandate under Section 75(4) of the BGST Act.

7. In such circumstances, we set aside the orders passed and relegate the petitioner to the Assessing Officer. The petitioner shall file a reply within a period of four weeks from today and the petitioner shall appear before the Assessing

Officer on 04.12.2024, on which date or on any other date, with notice given to the petitioner or the authorised representative with due acknowledgment, the matter shall be heard and finalised.

8. Insofar as the question of limitation is concerned, we leave liberty to the petitioner to challenge the Circulars, if at all, it is desired.

9. The writ petitions are disposed of without any observations on the merits of the assessment passed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	30.10.2024
Transmission Date	N/A