IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17140 of 2024

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M/S Patliputra Hytech Infra Private Limited a Private Limited Company incorporated under the Companies Act, 1956 having its registered office at 301, Maharaja Kameshwar Complex, Frazer Road, Police Station-Kotwali, District-Patna through its Director namely Mr. Mukesh Kumar, aged about 29 years, son of Jai Mangal Prasad Singh, Resident of Gurian, Chandes, Nuawon, Kaimur (Bhabhua), P.O. Nuawon, P.S. Chandes, District Kaimur (Bhabhua), Bihar (802132).

... ... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Finance, Bihar.
2. The Joint Commissioner, State Tax, Gandhi Maidan Circle, P.O. Gandhi Maidan, P.S. Gandhi Maidan, District Patna (Bihar).

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharwan Kumar Jha, Advocate Mr. Anuranjan Patel, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, Standing Counsel (11)

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

Date : 20-11-2024

The only contention raised in the above writ petition is with respect to the absence of the date in Annexure P/1 order. It is also submitted that even the demand raised in pursuance to Annexure P/1, which is produced as Annexure P/2, is not signed.

2. Considering a similar matter where there was no date on the order passed, we held so in CWJC No. 13460 of 2024 (M/s Patliputra Hytech Infra Private Limited vs the State

of Bihar) :-

> *"3. We are now concerned only with the fact that there is no date in the order at Annexure-P/3. True, the GST DRC-7 issued, shows the date as 30.09.2023, which is the demand issued based on the order. There is no presumption that the order is also issued on the very same date. An appeal has to be filed within three months or within a further period of one month explaining the delay under Section 107 of the Bihar Goods and Services Tax Act (for brevity, BGST Act). There is absolutely no way of determining the limitation period going by the order at Annexure-P/3 for the short reason of the date having not been disclosed in Annexure – P/3"*

The said case was also filed by the very same petitioner for a different assessment year.

3. In the above circumstances, we set aside the order at Annexure P/1 and direct the Assessing Officer to make fresh assessment after issuing notice to the petitioner and allowing them the opportunity to file objection as also a personal hearing as required under Section 75(4) of the Bihar Goods and Services Tax Act, 2017.

4. We have not made any observations on the merits of the assessment order.

5. It goes without saying that on the order being set

aside, the demand also does not survive.

6. The petitioner shall appear before the Assessing Officer on 11.12.2024 and file an objection to the show-cause notice, if not already filed. The Assessing Officer shall fix a further date for personal hearing and complete the assessment within one month from the date of hearing.

7. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.11.2024
Transmission Date	