IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2284 of 2025

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M/s Bihar Steel through its proprietor Mohammed Ali Sekh @ Md. Ali, aged about 34 years, male, Son of Md Asrar, Resident of village- Gopalpur, P.O. - Kajhiya, P.O. and P.S. - Banka, District- Banka Bihar.

... ... Petitioner/s

Versus

1. The Union of India through the Commissioner of Central Goods and Service Taxes, GST Bhawan, B.C. Patel Path, Patna.
2. The Superintendent, CGST and CEX Range, Banka Range Bhagalpur Division, Bihar.
3. Asst Commissioner Central GST Audit Circle, Bhagalpur.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Swarna Roy
For the Respondent/s : Mr.Additional Solicitor General

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-06-2025

Heard learned counsels for the parties.

2. In the instant writ petition, petitioner has prayed for the following relief(s):-

> (i) For issuance of an appropriate writ(s)/ order(s)/ direction(s) including a writ of certiorari for quashing/ setting aside the Order number 40/2024, dated 20.09.24 (ANNEXURE-P/3) passed by the respondent no 2, whereby the demand of

GST liabilities amounting to 19, 20, 423/-, CGST 5,93,695/-and SGST 5,93,695 under section 74 of CGST/SGST act 2017 read with section 20 of IGST act 2017 and applicable penalty under section 74 read with section 122(2)(b) of the CGST act 2017 and section 20 of the IGST act of hundred 70 and also directed for recovery of the same about. Apart from this interest of 7,45,730/-under section 50 of CGST and demand of late fee amounting to 20,000 under section 47 of CGST, demand of penalty amounting to 19, 40, 423/- under section 122 and 74 of CGST act 2017, demand of penalty amounting to 50,000 under section 125 of CGST was raised against the petitioner.

(ii) For issuance of an appropriate writ(s)/order(s)/ direction(s) including a writ of certiorari for setting aside the order number 43/2024 dated 01.10.2024 by which the respondent number 2 (ANNEXURE- P / 4)

(iii) For setting aside the order under section 74 passed by respondent number 2 or 30. 12. 2024 for the period F.Y. 2017-18 to 2021 -2022..(ANNEXURE- P / 5)

(iv) For setting aside the Form GST DRC-07 passed by respondent number 2 or 30. 12. 2024 for women of the demand. (ANNEXURE- P / 6)

(v) For setting aside the Form GST DRC-01 dated 30. 12. 2024 by which respondent number 2 has issued a fresh cause notice for the same period i.e F.Y.- 2017- 18 to2021-2022 upon the petitioner. .(ANNEXURE- P / 7)

(vi) For an interim order staying the operation, validity and effect of the Summary Order in form GST DRC-07, dated 30. 12. 2024 and stay of show cause notice issued wide DRC-01 on 30. 12. 2024 till the disposal of the writ petition.

(vii) For issuance of any other appropriate Writ(s), order(s), and/or direction(s), as Your Lordships may deem fit and proper in the facts and circumstances of this case and in the interest of justice.

3. In Para 22 of the pleading, it is stated as under:-

"That the petitioner has no other

> alternative or efficacious remedy than to move this Hon'ble Court for the issues raised in this Writ Petition."

On the other hand, petitioner has statutory remedy of Appeal before the Appellate authority. Without exhausting such remedy of Appeal, Writ Petition cannot be entertained in view of the four principles laid down by the Hon'ble Supreme Court in the case of State of Tamil Nadu Cements Corporation Limited vs. Micro and Small Enterprises Facilitation Counsil and Another, reported in (2025) 4 SCC 1.

4. Learned counsel for the petitioner tried to overcome the alternative remedy only on the score that Impugned Order was not be uploaded so as to invoke remedy before the Appellate Authority. It is a disputed issue which cannot be adjudicated under Article 226. Be that as it may, if the concerned authority/competent authority has not uploaded the impugned action of the respondent, the same shall be undertaken within a period

of one week. If it is uploaded, in that regard, necessary communication shall be made to the petitioner with reference to date of uploading the impugned action.

5. In the event of filing Appeal before the Appellate Authority, the Appellate Authority is hereby directed to entertain the Appeal without insisting the limitation.

6. If such Appeal is filed, the Appellate Authority is requested to expedite the Appeal or in the alternative consider and pass suitable order on interim relief, if any, sought by the petitioner.

7. With the above observation, the present Writ Petition stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.06.2025
Transmission Date	NA