

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2768 of 2025

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Shree Ram Sales LLP a limited liability partnership having its Principal place of business at Ward No. 38, Holding No. 308/250A, Circle No. 20A, R.K. Prasad Path, Kadam Kuna, Patna - 800003 through one of its partners namely Manoj Kumar Jaiswal, Son of Dinanath Prasad, Resident of Flat B/515, Durga Marine Drive, Dujra Devi Asthan, Near Rajapur Pul, Dujra, Patna - 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Assistant Commissioner of State Taxes, Patna Special Circle, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate Mr. Aditya Raman, Advocate
For the Respondent/s	:	Mr. Vivek Kumar, Government Pleader (7)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 24-02-2025

In the instant writ petition, petitioner has prayed
for the following reliefs:-

“(a) For issuance of a writ or order or a direction in the nature of certiorari for quashing of the order dated 24.04.2024 and the summary of order issued in form GST DRC - 07 dated 24.04.2024 passed and issued by the respondent number 2 under section 73 of the Central goods and services tax act 2017 (hereinafter referred to as the central act 2017 for short) read with Bihar goods and services tax act 2017 (hereinafter referred to as the Bihar act 2017 for short);

(b) For further issuance of a writ or order or a direction in the nature of certiorari for quashing of the letter bearing process number 117/1728 dated 23.01.2025 issued by the respondent number 2;



(c) For further issuance of a writ or order or a direction restraining the respondents from taking any coercive action against the petitioner in terms of section 79 of the central act 2017 and Bihar act 2017 for recovery of the amount of tax, interest and penalty determined in terms of the impugned order dated 24.04.2024 and the summary of order issued in form GST DRC – 07 dated 24.04.2024;

(d) For further holding and a declaration that the respondent number 2 could not have imposed the liability of tax, interest and penalty in terms of the impugned order only for reasons of one typographical error/human error in the shape of insertion of a digit "9" in the figure of taxable supplies mentioned in the return filed for the month of December 2018 in form GSTR-3B in spite of the annual returns of the petitioner of the financial year 2018 2019 filed in form GST R 9 and the statement of reconciliation filed in form GST R-9C being true and correct and not rejected by the respondent number 2 in the impugned order dated 24.04.2024;

(e) For further holding and a declaration that the respondent number 2 has not considered any of the documents already available on the GST portal like the annual return filed in form GSTR-9 and the statement of reconciliation in form GST R - 9C for the financial year 2018-2019 and the impugned order has been passed with a preconception to impose liability of tax, interest and penalty;

(f) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

2. The petitioner has a remedy of filing an appeal before the Appellate Authority and without exhausting such remedy he has approached this Court.

3. Learned counsel for the petitioner submitted that he would have approached the Appellate Authority if petitioner is heard in the matter *insofar as* issuance of show-cause notice and other consequential reminders in appropriate manner.



Similarly, uploading in the portal is not sufficient. It is also submitted that everyday he cannot peruse the portal whether notice has been uploaded by the official respondents or not. Therefore, the respondents cannot take shelter that they have uploaded show-cause notice and reminders.

4. Having regard to the violation of principle of natural justice, petitioner need not exhaust the statutory remedy of appeal before the Appellate Authority.

5. *Per contra*, learned counsel for the respondents resisted the aforementioned contention and submitted that system in a show-cause notice and other formalities are concerned, the concerned official respondent is required to upload in the portal and it is the duty of the concerned person to verify from the portal.

6. Heard the learned counsels for the respective parties, the petitioner need not be relegated to the Appellate Authority for the reasons that petitioner has not been provided opportunity of hearing and it is in violation of principle of natural justice for the reasons that there is a lack of communication of issuance of show-cause notice dated 23.12.2023 followed by reminders dated 03.04.2024, 08.04.2024 and 19.04.2024. The aforementioned notices



followed by reminders have been uploaded only in portal and it has not been officially communicated to the petitioner. Resultantly, petitioner has been denied the benefit of his say or against the show-cause notice dated 23.12.2023 followed by reminders.

7. On this short ground, the petitioner has made out a case, accordingly, Annexure P-9, dated 24.04.2024 stands set aside. The petitioner is now aware of the show-cause notice and reminders. Therefore, he is hereby directed to furnish his explanation/reply to the show-cause notice dated 23.12.2023 and submit his say within a period of three weeks from today. Thereafter, the concerned authority is hereby directed to provide oral hearing and proceed to pass appropriate order within a period of two months from the date of receipt of the petitioner's explanation/reply to the show-cause notice.

8. Accordingly, the present writ petition is allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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