IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4037 of 2024

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M/s Vastin Infratech Private Limited through its Managing Director Vinod Singh, K-502, White House, Flat No. 17, Hanuman Nagar, Kankarbagh, Patna-800020.

... ... Petitioner/s

Versus

1. The Union Of India Through the Secretary, Ministry of Finance, Govt. of India, New Delhi.
2. The Secretary, Department of Revenue, Govt. of India, New Delhi.
3. The Principal Commissioner of Central Goods and Service Tax, New Delhi
4. The Commissioner of Central Tax, 4th Floor, C.R. Building (ANNEXE), Bir Chand Patel Path, Patna-800001.
5. The Deputy Commissioner, CGST and CX, Central Division, Ground Floor, Chandpura Palace, Bank Road, West Gandhi Maidan, Patna-800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dr. Alok Kumar Sinha, Adv.
For the Respondent/s (UOI)	:	Mr. K.N. Singh, Sr. Adv., A.S.G.I
		Mr. Raja Prasad, Adv.

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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 : 23-04-2025

In the instant Writ Petition, the petitioner has prayed for the following reliefs:-

> "For issuance of appropriate writ/writs, order/orders, direction/directions in the nature of certiorari for quashing the Demand-cum-Show Cause Notice No. 1001 dated

26.07.2021 (Annexure-I) issued by the Office of Respondent No. 5 through which the Respondent No. 5 ask to explain as to why should not be collected an amount of Rs. 10,08,189/- (Rupees Ten Lakhs Eight Thousand One Hundred and Eighty Nine Only) for suppression of taxable service under contravention of various provisions of Finance Act 1994 for the period 2016-17 to 2017-2018 (upto June 2017). Amount so evaded appears liable to be recovered under proviso to Section-73(1) of the Act alongwith applicable interest under section 75 of the act. The Noticee appears liable for penalty under Section 78 of the Act for their willful act of suppression of facts with intent to evade payment of Service Tax under Section-77(2) of the Act for not filing ST-3 returns for the relevant period, notice also liable for penalty under section 77(i) (c) (ii) of the Act for their failure to produce documents under section 174(2) (e) of the CGST Act, 2017.

Be further to stay the operation of Demand-cum-show cause Notice no. 1001 dated 26.07.2021 during the pendency of this writ petition".

2. The petitioner has assailed the show-cause notice. Even though, Writ Petition is not maintainable against the show-cause notice. However, we have noticed from the records that there is an inaction on the part of the official respondent, either in proceeding *ex-parte* for not replying to show-cause notice dated 26.07.2021 by the petitioner on or before 12.02.2024. On 12.02.2024, petitioner is stated to have filed his reply to the show-cause notice. Thereafter, the official respondents have not taken any decision in respect of notice dated 26.07.2021 read with petitioner's reply dated 12.02.2024 and even to this day. Taking note of these facts and circumstances, read with the Co-ordinate Bench decision in the case of **M/S Kanak Automobiles Pvt. Ltd. Vs. The Union Of India (CWJC 18398 of 2023)** decided on 04.04.2024 and the Hon'ble Supreme Court decision in the case of **Union of**

India and Ors. Vs. M/S Kanak Automobiles Pvt. Ltd. decided on 03.01.2025, the petitioner has made out a case to interfere with the impugned show-cause notice and it is set-aside.

3. The present CWJC No. 4037 of 2024 stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.04.2025
Transmission Date	NA