IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4483 of 2025

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Morlatis Engineering and Construction Private Limited a company registered under Companies Act, 1956 having its office at Tola- Kesho Narenpur, Morwa, Samastipur, Bihar- 848504 through its authorized signatory Shri. Satyam Kumar (Male, aged about 25 Years) Son of Shri. Vidya Nand Choudhary, resident of Village Nagargama, Ward No. -5, Nagargama, Samastipur, Bihar – 848114. ... ... Petitioner

Versus

1. State of Bihar through Commissioner of State Tax, Bihar, Patna having its Office at Vikas Bhawan, Patna.
2. Dy. Commissioner of State Tax, Samastipur, Darbhanga, Bihar.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.V. Pathy, Sr. Advocate Mr.Sadashiv Tiwari, Advocate Mr. Hiresh Karan, Advocate Ms. Prachi Pallavi, Advocate
For the Respondent/s	:	Mr.Government Pleader (07)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 10-07-2025 In the instant petition, the petitioner has prayed for the following relief(s):-

> *(i) the order dated 29.10.2024 (as contained in Annexure-P7 series) passed by the respondent no. 2 under Section 74 of the Bihar Goods and Services Tax Act, 2017 (hereinafter called the Act) for the Tax Period April 2024 to July 2024 beyond the terms of the show cause notice; merely on the ground of reversal of input tax credit by the supplier of goods and services unilaterally at a date posterior to the date of supply of goods and services despite collection thereof at the preceding stage of sale and*

disallowance of input tax credit on the solitary ground of no stock found on the date of inspection without consideration of the written submission and also the explanation that the stocks are stored at the worksite for convenience of business and reduction of cost of transportation et cetera and also without bringing on record any material evidence on record to proceed on the ground of statement and suppression of facts leading to issue of notice under Section 74 of the Act as mandated under the circular issued by the Central Board of Indirect Taxes being wholly without jurisdiction merit to be set aside and quashed.

ii) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

2. Perusal of the notice read with the petitioner’s reply followed by the impugned order, it is evident that impugned order has not taken note of each and every contention read with the judicial pronouncement cited in his submission. The author of the impugned order is exercising a quasi-judicial function, his bounden duty to each and every contention raised against the show cause notice. Otherwise, it would be empty formality of issuing show cause notice and seeking explanation and proceed to pass order.

3. Therefore, we have to draw inference that there is a total non-application of mind while passing the impugned order dated 29.10.2024 (Annexure-P/7 series). Author of the impugned action is requested to strictly take note of the principle laid down by the Hon’ble Supreme Court decision in the case of **Oryx Fisheries Private Ltd. vs. Union of India & Ors.** reported in **(2010) 13 SCC 427** (para 47) before proceeding further in the matter to the extent of how quasi judicial functions were required to be exercised.

4. Accordingly, the impugned order dated 29.10.2024 stands set aside, matter is remanded to the author of the impugned order dated 29.10.2024 to take afresh decision. It is requested that petitioner shall be provided personal hearing. In this regard, notice shall be issued to the petitioner with a seven days time and thereafter written submission shall also be considered. The above exercise shall be completed within a period of four months from the date of receipt of this order. CWJC No. 4483 of 2025 stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit Kumar/-

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