IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5661 of 2025

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M/s. Shree Shyam Trading Co., a Partnership Firm having its place of business at Ranisati Complex, Jamal Road, P.S. Gandhi Maidan, Town and District Patna, through its Authorized Signatory, Jeetendra Prasad Chandravnshi, Aged about 40 Years, Male, Son of Sri Uma Shankar Prasad, Resident of 202, Landmark, Near Central Poultry Farm, Area/Locality/ Sector, Kaushai Nagar, Buddha Colony, P.S. Buddha Colony, District Patna.

... ... Petitioner.

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Secretary, Ministry of Finance, Government of India, New Delhi.
3. The State of Bihar through the Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna.
4. The Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna.
5. The Additional Commissioner, State Tax, Patna Division, Patna.
6. The Deputy Commissioner of State Tax, Patna West Circle, Patna.
7. The Joint Commissioner, State Tax, Patna West Circle, Patna.
8. The Assistant Commissioner, State Tax, Patna West Circle, Patna.

... ... Respondents.

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Appearance :

For the Petitioner	:	Mr. Mohit Agarwal, Advocate.
		Mr. Aman Kumar, Advocate.
		Mr. Vikash Khanna, Advocate.
For the State	:	Mr. Vivek Prasad, GP-7.
		Mr. Sanjay Kumar, AC to GP-7.
For the UOI	:	Mr. Anshuman Singh, Sr. SC (CGST & CX).
		Ms. Ruchi Mandal, Jr. counsel (CGST & CX).

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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 : 09-07-2025

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

"**(a)** For quashing the ex parte Assessment

Order dated 31.08.2023 passed under Section 73(9) of the BGST Act, 2017 by the Respondent Assistant Commissioner of State Tax, Patna West Circle, Patna and subsequent demand raised in Form DRC 07 dated 31.08.2023 with respect to Financial Year 2017-18 as the same has been passed without granting any opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 and also without service of any notice, much less, show cause notice by any mode of service as contemplated under Section 169 of the BGST Act, 2017;

(b) For holding that passing of the ex parte impugned assessment order dated 31.08.2023 without granting an opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 is violative of principle of natural justice and the impugned assessment order is liable to be quashed;

(c) For holding that as the Petitioner Firm was not served with the purported show cause notices or the impugned ex parte assessment order by a valid mode of service as contemplated under Section 169 of the BGST Act, 2017, the same amounts to violation of principle of natural justice and the impugned order is liable to be quashed and set aside;

(d) For holding that mere uploading of Notices under the heading of 'Additional Notices and Orders' on the GST portal cannot be considered to be a valid mode of service of notices as required under Section 169 of the BGST Act, 2017;

(e) For holding that in the facts of the present case, the impugned assessment order dated 31.08.2023 is an ex parte order as the notices were never served upon the Petitioner firm in terms of Section 169 of the BGST Act, 2017 nor the Petitioner was granted an opportunity of hearing in terms of Section 75(4) of the BGST Act, 2017; and/or for any other relief(s) as Your Lordships may deem fit and proper in the facts of the present case and in the interest of justice."

2. Learned counsel for the petitioner submitted that certain proceedings have been uploaded through Portal and it is contrary to Section 169 of the GST Act, 2017. Further, it is submitted that the petitioner is entitled to oral hearing in terms of Section 75(4) of the GST Act, 2017 and the same has not been provided to the petitioner. On this score itself, impugned actions of the respondents are liable to be set aside.

3. Per contra, learned counsel for the respondents resisted the aforementioned submission and submitted that in the notice the petitioner was given option for appearance and, therefore, he has not chosen to appear, resultantly, petitioner has not made out a case under Section 75(4) of the GST Act, 2017. It is further submitted that certain proceedings which have been initiated against the petitioner were uploaded in the Portal. Therefore, there is no violation of Section 169 of the GST Act, 2017.

4. Heard the learned counsel for the respective parties.

5. Time and again this Court has held that the concerned authority was required to strictly adhered to Section 75(4) of the GST Act, 2017 insofar as providing personal hearing. Reading of the show cause notice dated 14.03.2023, it is evident that against the column of Date of personal hearing, Time of personal hearing and Venue where personal hearing will be held, it is stated-NA. Therefore, petitioner cannot chose the date of personal hearing, time of personal hearing and so also the venue of personal hearing. On this count, the petitioner has made out a case. That apart, insofar as non-compliance to Section 169 of the GST Act, merely uploading the proceedings in a Portal would not suffice. In other words, every day Registered Company cannot peruse the Portal as to whether respondents have uploaded certain material information or not. Therefore, it is mandatory on the part of the official respondents to comply minimum two modes mentioned in Section 169 of the GST Act, 2017. On this count, the petitioner has made out a case so as to interfere with the impugned actions of the respondents.

Accordingly, they are set aside.

6. In the result, the competent authority, who has issued show cause notice, is hereby directed to fix a date of personal hearing, time of personal hearing and venue of personal hearing where the personal hearing would be held. Such notice shall be issued 15 days in advance to the petitioner. Thereafter, proceed strictly in accordance with the provisions of the GST Act, 2017. The above exercise shall be completed by the concerned authority within a period of four months from the date of receipt of a copy of this order. Petitioner shall co-operate with Respondents.

7. With the above observations, the instant writ petition stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2025.
Transmission Date	NA