IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6640 of 2025

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M/s. Raja Babu Kapra Ghar a Proprietary concern having its place of business at Purani Bazar Maharajganj, P.S. Maharajganj, District Siwan, through its Proprietor, Shree Ram Ji, Aged about 37 Years, Male, Son of Raj Narayan Prasad, Resident of Purani Bazar Maharajganj, P.S. Maharajganj, District Siwan.

... ... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of Bihar 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, Saran Division, Chapra (Saran).
6. The Deputy Commissioner of State Tax, Siwan.
7. The Joint Commissioner, State Tax, Siwan Circle, Siwan.
8. The Assistant Commissioner, State Tax, Siwan Circle, Siwan.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Mohit Agarwal, Advocate Mr. Sanjay Kumar Arya, Advocate Mr. Vikash Khanna, Advocate
For the UoI	:	Mr. Amit Pandey, Senior Counsel Ms. Ruchi Mandal, Advocate
For the State	:	Mr. Vivek Prasad, GP-7 Ms. Roona, AC to GP-7 Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 23-07-2025

Heard Mr. Mohit Agrawal, learned counsel for the petitioner, Mr. Vivek Prasad, learned GP-7 for the State as also Mr. Amit Pandey, learned Senior Counsel for the CGST and CX.

2. The petitioner in the present writ application is seeking the following reliefs:-

> "(a) For quashing the ex parte assessment order dated 06.02.2025 passed under Section 73(9) of the BGST Act, 2017 by the Joint Commissioner, State Tax, Siwan Circle, Siwan and subsequent demand raised in Form DRC 07 dated 06.02.2025 with respect to Financial Year 2020-21 as the same has been raised without passing a reasoned and detailed order merely by confirming the demand raised in DRC-01 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 and granting opportunity of hearing in terms of Section 75(4) AN 75(5) of the BGST Act, 2017;
>
> (b) For holding that passing of the ex parte impugned assessment order dated 06.02.2025 without recording any reason and merely by confirming the demand raised in DRC-01 is non-est in the eyes of law and thus, 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 reminders 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 principles 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 notice 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 06.02.2025 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 as the reminders were also not served upon the petitioner in the manner prescribed under Section 169 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.”

Brief Facts of the Case

3. It is the case of the petitioner that for the financial year 2020-21, he filed his return and deposited the admitted tax as per its Books of Account, however, he learnt from the office of the Respondent Joint Commissioner, State Tax, Siwan Circle, Siwan that the impugned order dated 03.08.2023 has been passed under Section 75(3) of the Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the 'BGST Act, 2017'). The assessing authority has raised a demand including interest and penalty to the tune of Rs. 7,58,105.36/-.

Submissions on behalf of the Petitioner

4. Mr. Mohit Agrawal, learned counsel for the petitioner submits that prior to passing the ex-parte order of assessment, the Respondent Authorities did not place the notice of personal hearing on the portal under heading 'Notices and Orders'. The screenshot of the portal showing 'Notices and Orders' has been brought on record as Annexure 'P/1'. It is stated that in fact, the notice giving the dates of personal hearing was placed under the heading 'Additional Notices and Orders' copy of which is Annexure 'P/2' to the writ application.

5. Learned counsel submits that even if it is assumed for an argument sake that the notice giving the date of personal hearing could have been placed under the heading 'Additional Notices and Orders', in the facts of the present case, it cannot be said to be an effective service of notice inasmuch as the petitioner was not made aware of the placing of the notice of hearing under the heading 'Additional Notices and Orders' on the common portal. Referring to the statements made in paragraph '16' of the writ application, learned counsel submits that there is specific statement of the petitioner that no notice giving rise to the impugned proceeding initiated under Section 73 of the BGST Act, 2017 were communicated to the petitioner by any mode other than merely uploading the same under 'Additional Notices and Orders' heading on common portal.

6. Learned counsel relies upon the judgment of this Court in the case of **M/s Lord Vishnu Construction Pvt. Ltd. Vs. The Union of India and Others** in **CWJC No. 5291 of 2024**. Learned counsel also relies upon the judgment of the learned co-ordinate Bench of this Court in case of **M/s Shree Shyam Trading Co., Vs. The Union of India and Others** in **CWJC No. 5661 of 2025** and reliance is also placed upon a judgment of the Hon'ble Madras High Court in the case of **M/s Axiom Gen Nxt India Private Limited Vs. Commercial State Tax Officer, T. Nagar Assessment Circle** in **W.P. No. 1114 of 2025**.

7. Learned counsel submits that a conjoint reading of the judgments would show that even though the Hon'ble Courts have noticed that Section 169 of the Central Goods and Services Tax/BGST Act, 2017 (in short 'CGST/BGST Act, 2017') provides for service of notices by any one of the modes provided under Section 169, taking a prudent view of the matter, the Courts have held that an effective service of notice is required to be done and for that purpose, the authority should ensure that the notices are served through at least two modes. It is submitted that on the face of the specific statement of the writ petitioner that he was not aware of the uploading of the notice of hearing by any other mode, the writ application is fit to be allowed.

8. It is further submitted that the legislatures have conferred a right to hearing under sub-section (4) of Section 75 of the CGST/BGST Act, 2017 to an assessee before passing of any adverse order by the tax authorities. If the impugned orders are not set aside and an opportunity is not given to the petitioner to place his case before the tax authorities, the petitioner is likely to suffer.

Submissions on behalf of the Respondents

9. Mr. Vivek Prasad, learned GP-7 for the State has opposed the writ application. Learned counsel submits that normally when a notice is uploaded on the common portal either under heading ‘Notices and Orders’ or the ‘Additional Notices and Orders’, the same is also communicated to the assessee either on his e-mail or through SMS.

10. Learned counsel, however, submits that in the present case while answering paragraph ‘16’ of the writ application, the Respondents have not given specific response to paragraph ‘16’ of the writ application.

11. Learned counsel submits that the recent judicial pronouncements on the subject have leaned in favour of the effective service of notice by not only placing the notice on the common portal but also by serving the same upon the assessee through any one of the alternative modes. Since the judgments have come recently, while drafting the counter affidavit, this aspect of the matter could not be adequately dealt with.

Consideration

12. Having heard learned counsel for the petitioner and learned GP-7 for the State respondents as also upon consideration of the entire pleadings available on the record, we are of the considered opinion that in this case, there being no contest to the statement of the petitioner made in paragraph '16' of the writ application that the notice of personal hearing was not served upon the petitioner by any other mode except by way of placing the same under the heading 'Additional Notices and Orders' and for that reason, the petitioner has been deprived of a valuable opportunity of hearing, this Court is of the considered opinion that the impugned orders be set aside and an opportunity to file show cause and personal hearing be granted to the petitioner to appear before the Respondent Authorities and make his submissions.

13. Accordingly, this Court sets aside the impugned orders. The petitioner shall appear through his authorized representative/lawyer, as the case may be, within three weeks from today i.e. on or before 13th August, 2025.

14. The Respondent No. 7 i.e. the Joint Commissioner, State Tax, Siwan Circle, Siwan or any other competent authority dealing with the matter shall give an opportunity to file show cause and personal hearing to the petitioner through his representative. The Joint Commissioner, State Tax, Siwan Circle/the competent authority, as the case may be, shall pass a reasoned order after giving personal hearing to the petitioner but preferably within a period of four months from today.

15. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	24.07.2025
Transmission Date	