IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6457 of 2025

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M/s. Water Tech Engineers a Partnership Firm having one of its place of business at Near Power Station, Navalal Chowk, Byepass, N.H.31, District Purnia, through its Authorized Representative Sanjay Kumar, Aged about 31 Years, Male, Son of Dhurendra Prasad Singh, Resident of Village- Sishauni Prabodhi, P.S. Telia Sarae, District - Vaishali.

... ... 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 Deputy Commissioner of State Tax, Purnia Division, Purnia.
6. The Joint Commissioner, Central GST and Central Excise Division, Purnia.
7. The Assistant Commissioner, Central GST and Central Excise Division, Purnia.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Mohit Agrawal, Advocate
For the UoI	:	Mr. Sriram Krishna, Senior Standing Counsel
For the State	:	Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 15-07-2025 Heard learned counsel for the petitioner and learned Senior Standing Counsel for the CGST & CX.

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

> "(a) For quashing the Ex Parte order dated 13.02.2025 bearing DIN 20250260XV000088758A passed by

the Respondent Assistant Commissioner, Central GST, Central Excise Division, Purnia whereby the Respondent No. 7 has been pleased to raise a demand to the tune of Rs.65,40,024/- on account of recovery of excess availed or unutilized Input Tax Credit, a further demand of interest on the aforesaid amount, penalty amounting to Rs.6,54,003/- and a further demand of Rs.2,62,950/- on account of recovery of late fee and general penalty under Section 47 of the CGST/SGST Act, 2007 and a further demand of Rs.3,16,278/- on account of recovery of tax with respect to Financial Year 2020-21 without granting an equal opportunity of hearing to the petitioner in terms of Section 75(4) & 75(5) of the CGST Act, 2017;

(b) For holding that the impugned order has been passed in utter violation of principle of natural justice and Section 75(4) & 75(5) of the CGST Act, 2017 as in the impugned order the notice sent through email for personal hearing and time sought for personal hearing has not been recorded nor in terms of Section 75(5) of the CGST Act, 2017, adjournment for personal hearing was granted; 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.”

3. The parties have exchanged their pleadings, however, after some arguments, Mr. Mohit Agrawal, learned counsel for the petitioner seeks permission to withdraw this writ application with liberty to apply for the statutory remedy of appeal in accordance with Section 107 of the Central Goods and Services Tax/Bihar Goods and Services Tax Act, 2017.

4. Learned counsel for the petitioner, however, submits that since the period of limitation for filing the appeal has expired during the pendency of the writ application, the period spent by the petitioner before this Court may be excluded in reckoning the period of limitation.

5. Learned Senior Standing Counsel for the CGST & CX has no objection to the prayer of the petitioner to withdraw the writ application with liberty to file an appeal.

6. In the circumstances, this writ application is permitted to be withdrawn with liberty to the petitioner to seek his remedy as may be advised to him in statutory appeal. This Court is of the view that if such an appeal is filed, the period spent by the petitioner in pursuing this writ application before this Court from the date of filing i.e. 09.04.2025 till today shall be liable to be excluded.

7. This observation, we have given, taking in view that the petitioner had approached this Court in this writ application within a period of three months i.e. the statutory period for filing appeal against the impugned order.

8. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Ashok Kumar Pandey, J)

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