

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6949 of 2025

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M/S Parvinder Singh through its proprietor Parvinder Singh, Male, aged about 45 years, S/o Vinod Shanker Singh, R/o gram- Sardar Nagar, Laxmipur, Post- Laxmipur, Thana- Barari, Panchayat- Laxmipur, Barari, Katihar, Bihar.
... .. Petitioner

Versus

1. The State of Bihar through the Commissioner of State Taxes, New Secretariat, Patna.
2. The Joint Commissioner Katihar Circle, Katihar.
3. The Additional Commissioner (Appeal) State Taxes, Purnea Commissionary, Purnea, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha @ Shahi, Advocate
Ms. Komal Raj, Advocate
For the Respondent/s : Mr. Vikash Kumar, Stading Counsel (11)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

6 03-09-2025 Heard learned counsel for the petitioner and learned
SC-11 for the State.

2. The petitioner in this case is praying for the
following reliefs:-

“A) For setting aside the assessment
order dated 15.01.2021 passed by the
adjudicating authority and the
appellate order dated 25.03.2025
passed by respondent number 3.

B) For setting aside the demand as
DRC-07 dated 15.01.2021.

C) Issue a writ of Mandamus
directing the Respondents to refrain



from taking any coercive action against the Petitioner concerning the impugned tax liability;

D) Pass any such other and further orders as may be deemed just and proper in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the petitioner is doing contractual work and has been filing regularly his GST returns. On comparison of GSTR-1/GSTR-3B/GSTR-2A available on GST portal by the competent authority, it was found that the petitioner had made supplies of Rs.10,25,422/- in Local Area Engineering Organisation, Works Division-1, Katihar in the month under review and as per return GSTR-7 filed by the supplier, CGST of Rs.10,254.00/-, SGST of Rs.10,254.00/- had been deducted as tax at source on the transaction but the supplies made by the appellant were not disclosed in the month under review. The competent authority alleged that it was deliberately not disclosed. In the order of the adjudicating authority, it was mentioned that DRC-01 was sent to the appellant through e-mail under Section 74 of the Central Goods and Services Tax/Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the ‘CGST/BGST Act, 2017’) but in compliance with the notice, neither any action was taken



by the petitioner nor the amount payable was paid. Therefore, the competent authority has imposed tax, penalty and interest under Section 74(9) of the CGST/BGST Act, 2017 read with Rule 142(5) of the Rules. Accordingly, DRC-07 was issued and demand has been raised by the respondent as per the assessment order dated 15.01.2021.

4. Learned counsel submits that on perusal of Annexure 'P/4 Series', it would appear that for the month of March during the financial year 2019-20, the petitioner filed his return and paid the taxes vide ARN dated 07.12.2020.

5. Attention of this Court has been drawn towards Form GSTR-3B with reference to Rule 61(5) of the BGST Rules, 2017. It is submitted that even though the return had been filed by the petitioner on 07.12.2020, the respondent authority issued a show cause notice under Section 74 of the BGST Act, 2017 on 10.12.2020 taking as if the petitioner had not submitted its return and paid the taxes. The petitioner was given time to file a response. It is submitted that this notice was uploaded under the heading 'Additional Notices' on the portal and the same was not served upon the petitioner through any other mode either on e-mail or through SMS as a result whereof no response to this show cause notice was submitted by the petitioner. It is,



however, submitted that the respondent authority could have easily found from the common portal that the petitioner had already submitted its return and paid the taxes due thereon. This was not done by the respondent authority.

6. It is submitted that the Assistant Commissioner, GST took a view that the petitioner had not paid taxes on the taxable supply of goods/services to Local Area Engineering Organisation, Works Division, Katihar which is an erroneous assumption of facts on the part of the Assistant Commissioner. It is submitted that the petitioner's business was closed on 30.09.2021 vide order passed by Respondent No. 2 and the respondent has certified that there is no tax dues on the petitioner on 30.09.2021. In this connection, Annexure 'P/5' has been brought on record with the rejoinder filed on behalf of the petitioner.

7. Mr. Vikash Kumar, learned SC-11 representing the State has, however, defended the action of the Assistant Commissioner, BGST. It is submitted that though the petitioner filed the return for March, 2020 on 07.12.2020 in response to the intimation in DRC-01A, it failed to intimate the same to the respondent adjudicating authority in the prescribed Form DRC-01B.



8. Learned SC-11 submits that the petitioner did not pay any interest on delayed tax payment of admitted tax. As such, notice in Form GST DRC-01 dated 10.12.2020 was served on the petitioner asking it to show cause as to why tax, interest and penalty should not be imposed on it as the petitioner had concealed its turnover and tax liability.

9. Attention of this Court has been drawn towards the statements made in paragraph '22' of the counter affidavit in which these facts have been reiterated. It is, however, admitted in paragraph '22' that had the petitioner intimated the respondent authority through Form DRC-01B that it had filed the return on 07.12.2020, no further proceeding would have been initiated against it under Sections 73 and 74 of the CGST/BGST Act, 2017.

10. This Court finds that this writ application is required to be disposed of by setting aside the impugned orders keeping in view the specific statements made in paragraph '22' of the counter affidavit. The admitted position is that the petitioner had filed the return on 07.12.2020 (Annexure 'P/4').

11. In such circumstance as per the averments of the respondent in paragraph '22' of the counter affidavit, the proceeding initiated against the petitioner under Sections 73 and



74 of the CGST/BGST Act, 2017 is only a result of non-communication of the filing of return by the petitioner to the respondent authority.

12. The impugned orders are set aside.

13. This writ application is allowed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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