IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7132 of 2025

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Shivam Agrorice Mill Private Limited having its place of business at Growth Centre, Gidha, Bhojpur through one of its directors namely Sheojee Prasad male aged about 66 years, son of Late Mahadev Prasad, resident of Choudhariyana Nala More, Arrah, P.S. Town Thana Arrah, District-Bhojpur, Bihar-802301.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Taxes (Appeals), Patna West Division, Patna.
3. The Assistant Commissioner of State Taxes, Shahabad Circle, Arrah.
4. The Deputy Commissioner of State Taxes, Shahabad Circle, Arrah (2018-2019).

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Aditya Raman, Advocate Mr. Alok Kumar Jha, Advocate Mr. Mukund Kumar, Advocate Mr. Akash Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

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

6 20-08-2025 In the instant petition, the petitioner has prayed for the following reliefs:-

> *" a) For issuance of a writ or order or a direction in the nature of certiorari for quashing of the order dated 15.04.2025 passed and issued by the respondent number 2 under section 107 of the Central Goods And Services Tax Act, 2017 (hereinafter referred to as the central act 2017 for short) read with*

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Bihar Goods And Services Tax Act, 2017 (hereinafter referred to as the Bihar act 2017 for short) whereby the appeal preferred by the petitioner against the order dated 27.04.2024 passed by the respondent number 3 under section 73 of the central act 2017 and Bihar act 2017 has been rejected on grounds of delay without appreciating the fact that the order determining liability was wholly without jurisdiction as the petitioner company dealt in sale and supply of rice which is fully exempted in terms of the central act 2017 and Bihar act 2017;

b) For further issuance of a writ or order or direction in the nature of certiorari for quashing of the order dated 27.04.2024 and the summary of order issued in form GST DRC-07 dated 28.04.2024 passed by the respondent number 3 without jurisdiction as the sale and supply of rice (unregistered brand) is fully exempted under the central act 2017 and Bihar act 2017 from taxation;

c) For further issuance of a writ or order or a direction restraining the respondents from taking any coercive action against the petitioner in terms of section 79 of the central act 2017 and Bihar act 2017 for recovery of the amount of tax, interest and penalty determined in terms of the impugned order dated 27.04.2024 and 15.04.2025 passed by the respondent number 3 and 2 respectively;

d) For further holding and a declaration that the item dealt by the petitioner in business being sale and supply of rice with HSN code - 1006 is fully exempted from tax liability under the central act 2017 and Bihar act 2017 and therefore the imposition of

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liability of tax, interest and penalty in terms of the impugned order by the respondent number 3 is wholly illegal, without jurisdiction and unsustainable in the eye of law;

e) For further holding and a declaration that the petitioner being engaged in the business of trading items fully exempted under the central act 2017 and Bihar act 2017 could never be subjected to the liability of tax, interest and penalty and as such the impugned order suffers from serious jurisdictional error wherein the petitioner has been saddled with such liabilities only on account of non-appearance in the proceeding;

f) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

2. Core issue involved in the present *lis* is whether petitioner is trading in rice items including the exemption of GST to some identified rice and so also certain rice he is liable for GST. These issues are not disputed by either of the parties. After filing of return on behalf of the petitioner, respondents are stated to have demanded certain material information insofar as claiming exemption of GST. In this regard, petitioner has failed to furnish material information, resultantly, the official respondent proceeded to take impugned action. Impugned action were subject matter of litigation before the Appellate Authority

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and Appellate Authority has rejected the petitioner's appeal on the sole ground of delay in filing appeal.

3. The petitioner should have been provided reasonable opportunity of adducing material evidence to the extent that he is entitled to exemption of GST to certain rice items with reference to invoice raised by him and other corroborative material evidence. Taking note of these facts and circumstances, the petitioner has made out a case so as to interfere with the impugned action of the respondents and so also appellate authority order. Accordingly, orders dated 15.04.2025, 27.04.2024 and 28.04.2024 are set aside.

4. Petitioner is hereby directed to produce all such of those material evidence in seeking exemption of GST to certain extent of transaction with reference to invoice read with corroborative evidence. Such material shall be placed before the concerned authority within a period of two months from today. Thereafter, the concerned competent authority is hereby directed to fix a date of oral hearing to the petitioner to appreciate the material evidence produced by the petitioner in seeking exemption of GST. Thereafter, the competent authority is hereby directed to take note of all those necessary material evidence and proceed to pass a fresh speaking order within a period of

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four months from today.

5. The petitioner shall co-operate with the official respondents as and when his presence is required before the competent authority in respect of the subject matter. With the above observation, the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Shailendra Singh, J)

Maynaz/Rajiv-

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