IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8470 of 2025

==

M/s Gudari Sah Ramanad Sah, a Proprietary Concern having its Place of Business at Kishunpura, Madarpur, P.S. Basantpur, District- Siwan, through its Authorized Representative Ankit Kumar, aged about 20 Years, Male, Son of Manoj Prasad, Resident of Kishunpura, Madarpur, P.S. Basantpur, District Siwan.

... ... 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, 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

==

Appearance :

For the Petitioner	:	Mr. Mohit Agarwal, Advocate Mr. Sanjay Kumar Arya, Advocate Mr. Vikash Khanna, Advocate
For the State	:	Mr. AC to Government Pleader 07
For the CGST & CX	:	Mr. Sriram Krishna, Senior SC
For the UoI	:	Ms. Shilpi Keshari, Jr. SC

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE AJIT KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 12-08-2025 Heard learned counsel for the petitioner and learned AC to GP-7 for the State as also learned Senior Standing Counsel for the CGST & CX.

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

"a) For quashing the ex parte Assessment Order dated 29.12.2023 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 29.12.2023 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 29.12.2023 without granting an opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 is violation 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 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 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 29.12.2023 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."

3. Learned counsel for the petitioner submits that in this case, there is no proper service of notice in terms of Section 169 of the Bihar Goods and Services Tax Act, 2017 (in short 'BGST Act, 2017'). It is further submitted that the respondents have not given an opportunity of hearing as required mandatorily under sub-section (4) of Section 75 of the BGST Act, 2017. Learned counsel has placed before this Court the statements made in paragraphs ‘17’ and ‘18’ of the writ application.

4. Learned counsel for the petitioner has also placed before this Court the response of the respondents to those paragraphs as contained in paragraphs ‘39’ and ‘40’ of the counter affidavit filed on behalf of Respondent Nos. 6, 7 and 8. It is submitted that there is no specific denial of the statements made in paragraphs ‘17’ and ‘18’ of the writ application.

5. At this stage, learned AC to GP-7 has submitted that having regard to the pleadings on the record, the impugned orders may be set aside and the matter may be remanded to the Proper Officer for passing an appropriate order after giving an opportunity of hearing to the petitioner.

6. Having regard to the kind of stand taken on behalf of the respondents, we set aside the impugned orders.

7. The petitioner undertakes to file its reply/response within four weeks from today whereafter the respondent authority, if contemplates passing of an adverse order, shall given an opportunity of hearing to the petitioner. After giving opportunity of hearing to the petitioner, the respondent authority shall pass a fresh order in accordance with law within a period of three weeks from the date of hearing.

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

(Rajeev Ranjan Prasad, J)

(Ajit Kumar, J)

lekhi/-

U			