IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9658 of 2024

==

M/s Maa Gaytri Distributor through proprietor Sanjeet Kumar, son of Brijnandan Prasad, aged about 48 years, Male, resident of Kamla Nandan Niwas, West Lohanipur, P.S.-Kadam Kuan, District-Patna-800003.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Taxes, New Secretariat, Patna, Bihar.
2. The Commissioner of State Taxes, New Secretariat, Patna.
3. The Assistant Commissioner, Patna North Circle, Patna.
4. The Additional Commissioner of State Taxes (Appeal), Patna East Division, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mrs. Archana Sinha, Sr. Advocate
Mr. Alok Kumar @ Alok Kr Shahi, Advocate
Mr. Shubham Shankar, Advocate

For the Respondent/s : Mr. Vivek Prasad, G.P.- 7

==

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

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

Date : 04-03-2025

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for following reliefs:-

> "(a) For issuance of writ of certiorari against order dated 08.02.2021 (Annexure-3) issued by respondent no. 3 without giving opportunity of hearing and violating the principles of natural justice and also quashing of the order dated 19.03.2024 (Annexure-6) issued by respondent no. 4 without giving any opportunity of hearing and violating the Principles of natural justice as well as provisions of Sec 107(8) of BGST

Act.

(b) For any other consequential relief or reliefs for which the petitioner is found entitled during the course of hearing of the writ petition."

3. Petitioner's appeal has been rejected by the appellate authority on the sole ground that it was beyond the time-limit stipulated under Section 107 of the GST Act.

4. Learned counsel for the petitioner submitted that from the inception there is defect insofar as not providing opportunity to meet the show cause notice. Show cause notice and consequential reminders or additional notices were uploaded in the portal and it has not been noticed by the petitioner. Uploading of notices and not informing the concerned taxpayer is not fair procedure for the reasons that respondent- State cannot expect taxpayer to keep on watching portal from time to time whether any notices have been issued by the official respondent/ State authority or not? Principle is fairness and reasonableness of procedure and Judicial Review has been elaborately considered by the Hon'ble Supreme Court in the case of ***Madhyamam Broadcasting Limited Vs. Union of India & Ors.*** reported in ***(2023)13 SCC 401***. This decision would assist the case of the petitioner in not providing copy of the notice timely through fair mode. On this short ground

petitioner has made out a case so as to interfere with the order of the appellate authority dated 19.03.2024 as well as order of determination of tax dated 08.02.2021 and are set aside.

5. Petitioner is now aware of the show cause notice and reminders, therefore, petitioner is hereby directed to furnish detailed explanation/ reply within a period of six weeks from the date of receipt of this order. Thereafter, the concerned authority shall proceed to pass further orders insofar as determination of tax, if any, and in accordance with law. The above exercise shall be completed by the official respondents within a period of two months from the date of receipt of petitioner's explanation/ reply to the show cause notice/ additional show cause notice etc.

6. Accordingly, the present writ petition stands allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	08.03.2025
Transmission Date	