IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9741 of 2024

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Rajendra Prasad Yadav Son of Rajendra Prasad Yadav a proprietary concern having its office at Shastri Nagar, Munger, Bihar- 811201 through its authorized signatory Manish Kumar (Male) aged about 36 years son of Rajendra Prasad Yadav, resident of Road No. 1, Shastri Nagar, Munger, Bihar- 811201.

... ... Petitioner/s

Versus

1. Union of India, through the Secretary, Finance, North Block, New Delhi- 110001.
2. Central Board of Indirect Taxes and Customs, Ministry of Finance, Government of India having its office at North Block, New Delhi- 110001.
3. State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
4. Asst. Commissioner of State Tax, Munger, Bhagalpur, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V. Pathy, Sr. Advocate.
	:	Mr. Sadashiv Tiwary, Advocate.
	:	Mr. Hiresh Karan, Advocate.
	:	Ms. Prachi Pallavi, Advocate.
	:	Ms. Shivani Dewalla, Advocate.
For the Respondent/s	:	Dr. K. N. Singh, ASGI.
	:	Mr. Anshuman Singh, Sr. SC, CGST & CX.
	:	Mrs. Pratiha Sharma, Advocate.
	:	Mr. Vikash Kumar, SC-11.
	:	Mr. Akash Chaturvedi, AC to SC-11.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-02-2025

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

> *"i) the Notification No.09/2023 dated 31.03.2023 (as contained in Annexure – P 3) issued by the respondent no.2 extending the time limit specified under sub Section (10) of Section 73 of the*

Central Goods and Services Tax Act, 2017 (hereinafter called the Act) for issuance of order under sub Section (1) of Section 73 of the Act for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized yp to 31.03.2024 being beyond the scope of powers under Section 168A of the Act being wholly without jurisdiction be quashed.

ii) the Notification No. 56/2023 – Central Tax dated 28.12.2023 (as contained in Annexure – P 4) issued by the respondent no.2 extending the time limit specified under sub Section (10) of Section 73 of the Central Goods and Services Tax Act, 2017 (hereinafter called the Act) for issuance of order under sub Section (1) of Section 73 of the Act for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized up to 30.04.2024 being beyond the scope of powers under Section 168A of the Act being wholly without jurisdiction be quashed.

iii) the order dated 28.04.2024 (as contained in Annexure – P 2 series) and the show cause notice dated 26.10.23 and 20.12.2023 (as contained in Annexure – P 1 series) for the month of March 2019 and January 2019 falling in the Tax Period 2018-19 passed by the respondent no.4 under Section 73 of the Act charging tax, interest and imposing penalty amounting to Rs.40,31,534,/- and Rs.2,54,158/- respectively having been passed beyond the time limit for assessment set out in Section 73(10) of the Act be set-aside and quashed."

2. Show cause notice DRC-01 under Section 73 of the Bihar Goods and Services Tax Act, 2017 was issued to the petitioner on 26.10.2023 insofar as availing of I.T.C. in the year 2018-19. In this regard, a proposal total tax and interest has been determined. Admittedly, petitioner did not submit his explanation/

reply to the notice, thereafter the impugned order has been passed on 26.10.2023 vide Annexure P-2 series. During pendency of present petition sub-sections (5) and (6) of Section 16 have been inserted after Section 16 (4) by the Finance (No.2) Act, 2024 dated 16.08.2024 with retrospective effect from 01.07.2017. Resultantly, the present petition does not survive for consideration.

3. On the other hand, petitioner has a fresh cause of action in view of retrospective insertion of sub-sections (5) and (6) of Section 16, therefore, the present petition stands disposed of reserving liberty to the petitioner to approach the concerned authority in the light of insertion of sub-sections (5) and (6) of Section 16 within a period of four weeks. Thereafter, the concerned respondents are hereby directed to expedite the matter in terms of relevant provisions.

4. With the above observation, the present writ petition stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

harish/-ritik/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2025
Transmission Date	NA