IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12813 of 2024

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Shashi Kant Gaur, (Proprietor of Hitech Petronergy), Son of Shyam Sunder Gaur Resident of R.B.DP. Dhandanya Lane, Asanandpur, P.O.-Sujaganj, P.S.-Kotwali, District-Bhagalpur.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The State of Bihar through the Additional Commissioner (Appeal), State Tax, Bhagalpur Circle, Bhagalpur, Bihar.
3. The Additional Commissioner (Appeal), State Tax, Bhagalpur Circle, Bhagalpur, Bihar.
4. The Assistant Commissioner, State Tax, Bhagalpur Circle, Bhagalpur, Bihar.
5. The Joint Commissioner, State Tax, Bhagalpur Circle, Bhagalpur, Bihar.
6. The Assistant Commissioner Bihar

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Udbhav
For the Respondent/s : Mr.Government Pleader (7)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

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

12 23-07-2025 In the instant petition, the petitioner has prayed for the following relief-

> *(i). For quashing, the order dated 30.12.2023 passed by the Assistant Commissioner of State Tax, Bhagalpur 2, Bhagalpur, Bihar under section 74 of the C.G.S.T. Act vide which the petitioner has been held to be liable to pay in total Rs. 5,85,42,178/- (including CGST + SGST + Interest + Penalty) for the financial year 2017-18, and the order dated 30.03.2024 passed by the Additional*

Commissioner (Appeal), State Tax, Bhagalpur Division, Bhagalpur in appeal preferred by the petitioner against the order dated 30.12.2023 passed by the Assistant Commissioner of State Tax, Bhagalpur 2, Bhagalpur, Bihar vide which the petitioner has been held to be liable to pay incremental total of Rs. 6,68, 43.842/(including CGST + SGST + Interest + Penalty) for the financial year 2017-18: further for quashing the order dated 29.04.2024 passed by the Assistant Commissioner of State Tax, Bhagalpur 2, Bhagalpur, Bihar under section 73 of the C.G.S.T. Act vide which the petitioner has been held to be liable to pay in total Rs. 2,66,36,480/- (including CGST + SGST + Interest + Penalty) for the financial year 2018-19.

2. On 16.06.2025, we have passed the following order:-

"Petitioner has assailed the impugned order on two counts namely limitation insofar as initiation of proceedings by the concerned official Respondent and non-compliance to Sub-Section 4 of Section 75 of CGST Act, 2017. Among the several grounds these two grounds have been urged during the course of the day.

2. Learned counsel for the State is hereby directed to secure instruction whether Sub-Section 4 of Section 75 of CGST Act, 2017 has been complied or not?

3. Relist this matter on 23.06.2025."

3. Today, learned counsel for the State, on instruction submitted that there is non-compliance of Sub-Section 4 of Section 75 of CGST Act, 2017. Having regard to the admitted fact that respondents have not complied statutory provision like Sub-Section 4 of Section 75 of CGST Act, 2017, on this sole ground the petitioner has made out a case so as to interfere with the impugned action of the respondents which are at Annexure -P/1 dated 30.12.2023, Annexure-P/2 dated 30.03.2024 and Annexure-P/3 dated 29.04.2024 stands set aside and the matter is remanded to the concerned authority from the defective stage insofar as compliance of Sub-Section 4 of Section 75 of CGST Act, 2017.

4. The petitioner shall co-operate with the official respondents and complete the proceedings after due opportunity of hearing within a period of four months from the date of receipt of this order. The concerned authorities are exercising quasi-judicial functions therefore, they are requested to peruse the Supreme Court decision in the case of **Oryx Fisheries Private Ltd. vs. Union of India & Ors.** reported in **(2010) 13 SCC 427** "para 47" so as to complete each and every procedural aspect insofar as undertaking the quasi-judicial

functions in the present case.

5. With the above observation, the present CWJC No. 12813 of 2024 stands allowed in part.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit Kumar/-

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