IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13275 of 2024

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Manoj Kumar S/o Upendra Narayan Singh, R/o Flat no. D/304, Bansal Plaza, Station Road, behind Hotel Kings 11, P.S. - Chutia, Dist. - Ranchi, Jharkhand as Proprietor of M/s Manoj Kumar having its place of business at Pritambarpur, P.O. Bari Paithana, P.S. - Islampur, Dist. Nalanda - 801301.

... ... Petitioner/s

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block New Delhi 110001.
2. The State of Bihar through Principal Secretary, State Tax Government of Bihar, Vikash Bhawan, Patna - 800001.
3. Principal Chief Commissioner of CGST and Central Excise having its office atcentral Revenue Building, (Annexe), Bir Chand Patel Marg, Patna.
4. Shri Jeevan Agrawal, the Addl. Commissioner (Appeal), Patna West Division, Pant Bhawan Baily Road, Patna - 800001.
5. The Assistant Commissioner, Danapur Circle, Office of the Joint Commissioner, Pant Bhawan, Baily Road, Patna - 800001.
6. The Additional /Joint Commissioner, CGST and Central Excise, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sudhanshu Prakash Ms.Surbhi Aagarwal Mr.Parth Jalan
For the UOI	:	Dr.K.N.Singh Mr.Shivaditya Dhari Sinha
For the State	:	Ms.Supragya, AC to GP7 Mr.Aman Priyadarshi

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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)

10 10-04-2025 *Mr. Parth Jalan* counsel for the petitioner appears through video conferencing.

2. In the instant writ petition, petitioner has prayed for the following relief(s):-

"a. For the issuance of an

appropriate writ(s), order(s) or direction(s) particularly in the nature of certiorari for quashing of the order dated 27th of May 2024 contained in Memo bearing No. C No. V (15) 387-ST/Adjn/2020/3613 (bearing DIN 20240560XU000000B9DD) as the same is without jurisdiction has been passed without proper application of mind and in gross ignorance to the circular bearing Notification No. 13/2012-Service Tax dated 17th of March 2012;

b. For the issuance of an appropriate writ(s), order(s) or direction(s) particularly in the nature of certiorari for quashing of the order dated 27th of May 2024 contained in Memo bearing No. C No. V(15) 387-ST/Adjn/2020/3613 (bearing DIN 20240560XU000000B9DD) as the same suffers from foundational fact without any finding being returned on the fact as to where the Petitioner falls within the definition of 'Goods Transport Agency under Section 65(50b) of the Finance Act, 1994;

c. For the issuance of such other writ(s), order(s), or direction(s) to stay the implementation, execution and operation of the order dated 27th of May 2024 contained in Memo bearing No. C No. V(15) 387-ST/Adjn/2020/3613 (bearing DIN 20240560XU000000B9DD), during the pendency of the instant writ petition;

d. For the issuance of such other writ(s), order(s), or direction(s) as this Hon'ble Court may think just *and proper in the facts and circumstances of the case doing conscionable justice to the Petitioner.*

e. For the grant of any other relief's for which petitioner has been found entitle in the eye of law."

3. Learned counsel for the petitioner is restricting the present writ petition only to prayer (a). The petitioner has statutory remedy of appeal before the Appellate Authority Without exhausting such statutory remedy of appeal, petitioner has rushed to this Court. In not exhausting statutory remedy of appeal, learned counsel for the petitioner vehemently contended that impugned order is in violation of Government notification dated 17.03.2012 *vide* Annexure-4. Writ Court can entertain writ petition without exhausting statutory remedy of appeal only under four circumstances which has been laid down by the Hon'ble Supreme Court decision in the case of **M/s Godrej Sara Lee Ltd. vs. the Excise and Taxation Officer-cum-Assessing Authority and Ors.** reported in **2023 SCC OnLine SC 95** . Petitioner's case is not covered under the aforementioned judgment.

4. Resultantly, the present writ petition is pre-mature. Accordingly, the present CWJC No. 13275 of 2024 stands disposed of. Reserving liberty to the petitioner to invoke remedy of appeal before the Appellate Authority. If such appeal is filed

by the petitioner, the Appellate Authority is requested to take note of Section 14 of the Limitation Act for the purpose of condonation of delay relating to time spent before this Court in the present writ petition. The Appellate Authority is requested to decide the appeal to be filed on behalf of the petitioner within a reasonable period of four months from the date of receipt of such appeal, if any.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

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