IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18879 of 2024

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M/s Bishnu Flour Mills Pvt. Ltd. having its Registered office at Sirsa, Dalan, Katihar, Bihar-854105 through its Director Mr. Vivek Agrawal, aged about 34, S/o Pradip Kumar Agrawal.

... ... Petitioner/s

Versus

1. The Union of India through its Secretary and Commissioner (GST) Ministry of Finance, Department of Revenue having its office at Central Secretariat, North Block, New Delhi-110001.
2. The Central Goods and Service Tax, through Chairperson having its registered office, 4th Floor, East Wing, World Mark-1, Aero City, Indira Gandhi International Airport, New Delhi.
3. The Chief Commissioner CGST and CX, Office at C.R. Building, 1st Floor, Bir Chand Patel Path, Patna, Bihar.
4. The State of Bihar through the Secretary cum Commissioner, Bihar Goods and Service Tax, Kar Bhawan, Beer Chand Patel Marg, Govt. of Bihar, Patna.
5. Joint Commissioner of State Tax, Katihar Circle, Katihar.
6. Deputy Commissioner of State Tax (SGST) Katihar Circle, Katihar.
7. Assistant Commissioner of State Tax (SGST), Katihar Circle, Katihar.
8. Additional Commissioner of State Tax (Admin) Purnea Division, Purnea.
9. Additional Commissioner of State Tax (Appeal), Purnea Division, Purnea.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anurag Saurav, Advocate Ms. Prity Kumari, Advocate Mr. Abhishek Kumar, Advocate Mr. Ankesh Bibhu, Advocate
For the UOI	:	Mr. Anshuman Singh, Sr. SC, CGST&CX
For the State	:	Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 29-07-2025

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

> "(i) For Quashing of Order Dated 09.09.2024passed Under Section 107 of BGST Act 2017by Additional Commissioner of State Tax, (Appeal), Purnea Division, Purnea i.e. Respondent no. 8 for the Financial Year 2023-24, Whereby and Whereunder the respondent Appellate Authority rejected the appeal filed by the petitioner on the ground that during filing of appeal 10% of disputed amount has not been paid by the petitioner without considering the fact that the petitioner has filed the appeal against order dated 04.03.2024 whereby the petitioner refund application filed under Form GST RFD-01 dated 23.01.2024 for refund of ITC on export of goods and services without payment of IGST has been rejected and no disputed tax amount has been challenged before Appellate Authority rather petitioner is making claim of excess deposit of amount before authorities. Hence, in such circumstance petitioner did not to deposit any additional tax amount before filing of appeal.
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> (ii) For issuance of an appropriate writ/order/direction for setting aside order dated 16.05.2024 passed under Section 54(5) of GST Act, 2017 by Joint Commissioner of State Tax jurisdiction, Katihar Circle, Katihar, Bihar, has rejected the refund application in the Form of RFD-01 dated 13.01.2024 on the ground that petitioner had not made reply of show cause notice and prior to rejecting the refund application the respondent Joint Commissioner vide order dated 05.04.2024 himself allowed the same refund application and directed to issue RFD-06 and the said order has been passed after considering the show cause reply of the petitioner and subsequently after issuance of RFD-06 one another show cause notice was issued and without any evidence respondent Joint Commissioner alleged in the subsequent show 'cause notice that as per CAG Report 2008-09 there is pending tax of Rs. 97.28 lakhs against the petitioner but no document or demand notice was provided to the petitioner and vide order dated 16.05.2024 without assigning any reason the refund application of the petitioner was rejected.
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> (iii) For issuance of the writ in the nature of mandamus directing the respondent authority to provide

CAG report for the F.Y. 2008-09, on the basis of which respondent authority had alleged against the petitioner that there is pending tax amount of Rs. 97.28 lakhs and rejected the refund application of the petitioner, rather the petitioner had till date not received any Audit Report (CAG) nor received any demand notice of assessment conducted on the basis of CAG report for the F.Y. 2008-09

(iv) For issuance of any other appropriate writ(s), order (s), or direction (s) as your lordship may deem fit and proper in the facts and circumstances of the case for doing justice."

2. The petitioner was asked to pay sum of Rs. 97.28 Lakhs with reference to certain discrepancy in respect of certain transaction and it is in terms of CAG para 2.2.27.1 for the CAG Report Year-2008-09. It reads as under:-

"1. Export से सबंधित लेखा-पुस्त करदाता के पास उपलब्ध है या नहीं तथा उपलब्ध ऑकडे का मिलान Export goods के Invoice से किया गया है या नहीं। करदाता द्वारा प्रयुक्त E-waybill, bill to ship है या bill to bill है, तो Place of supply पर stock की स्थिति क्या थी।

2. CAG के PARA No. 2.2.27.1 के अवलोकनोपरांत CAG year 2008-09 में संबंधित करदाता M/S BISHNU FLOUR MILLS PRIVATE LIMITED, VAT-10450609007 के विरुद्ध बकाया राशि रू. 97.28 लाख परिलक्षित है।"

3. Feeling aggrieved by the order dated 08.05.2024, petitioner preferred an appeal before the Appellate Authority and Appellate Authority has rejected the appeal on the sole ground that the petitioner has failed to comply statutory pre-deposit to entertain appeal.

4. Be that as it may, before determining Rs. 97.28 Lakhs to be paid by the petitioner, the concerned authorities have not determined how, they have arrived to a sum of Rs. 97.28 Lakhs to be paid by the petitioner. In other words, there is no split material information and it is a non-speaking order. The author of order dated 08.05.2024 is exercising *quasi* judicial function, he is bounden to assign the reasons/pass a speaking order, his/her order is subject to judicial review. In order to meet effective appeal before the Appellate Authority or judicial review, the order of the adjudicating authority should be reasoned and speaking one. Time and again, Courts have held that *quasi* judicial authorities order must be speaking and in detail in support of respective decision. Hon'ble Supreme Court has laid down certain principles as to how *quasi* judicial order is to be passed in the case of ***Oryx Fisheries Private Limited Versus Union of India*** and Others reported in ***(2010) 13 SCC 427***. Para 40 reads as under:

> "**40.** In *Kranti Associates* [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below : (SCC pp. 510-12)
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> "(*a*) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
>
> (*b*) A quasi-judicial authority must record reasons in support of its conclusions.
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> (*c*) Insistence on recording of reasons is meant to serve the wider principle of justice that

justice must not only be done it must also appear to be done as well.

(*d*) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(*e*) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(*f*) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(*g*) Reasons facilitate the process of judicial review by superior courts.

(*h*) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(*i*) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(*j*) Insistence on reason is a requirement for both judicial accountability and transparency.

(*k*) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(*l*) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or ‘rubber-stamp reasons’ is not to be equated with a valid decision-making process.

(*m*) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only

> makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*(1987) 100 Harv. L. Rev. 731-37.)
>
> (*n*) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of *Strasbourg Jurisprudence*. See *Ruiz Torija* v. *Spain* [(1994) 19 EHRR 553] , EHRR at p. 562, para 29 and *Anya* v.*University of Oxford* [2001 EWCA Civ 405 : 2001 ICR 847 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.
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> (*o*) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'."

Certain ingredients in the impugned order dated 08.05.2024, are not forthcoming, therefore, we have to draw inference that it is a non speaking order. Consequently, impugned order dated 08.05.2024 and Appellate Authority order are liable to be set aside and are set aside. Author of order dated 08.05.2024 (Annexure-P/4) is hereby directed to pass a fresh and detailed speaking order. He/she is hereby directed to provide oral hearing to the petitioner, if statutory provision provides for it. The above exercise shall be completed within a period of three months from the date of receipt/production of a copy of this order. The petitioner is hereby directed to cooperate in the proceeding.

5. Writ petition is allowed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2025
Transmission Date	NA