IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19542 of 2024

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Hindustan Coca-Cola Beverages Private Limited a registered company having its local place of business at E 1 industrial area, Pataliputra, Patna through its authorized signatory namely Suchit Jha male aged about 53 years son of Late Ganesh Jha resident of flat number L 2, Jagat enclave apartment, Ashiana Nagar, phase 1, Phulwari, Patna - 800025.

... ... Petitioner/s

Versus

1. The Union of India through the Principal Commissioner, central GST and CX, third floor, Central Avenue building (Annexe), Bir Chand Patel Path, Patna- 800001.
2. The Principal Commissioner, Central GST and CX, third floor, Central Avenue building (Annexe), Bir Chand Patel Path, Patna- 800001.
3. The Joint Commissioner, Central GST and CX, third floor, Central Avenue building (Annexe), Bir Chand Patel Path, Patna- 800001. (2019-2020).
4. The Superintendent, Central GST and CX, S.K. Puri range, Patna. (2019-2020)

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate
Mr. Atal Bihari Pandey, Advocate
Mr. Alok Kumar Jha, Advocate
Mr. Mukund Kumar, Advocate
Mr. Aditya Raman, Advocate
Mr. Akash Kumar, Advocate

For the Respondent/s : Mr.Dr. K.N. Singh (ASG)
Mr. Shivaditya Dhari Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-04-2025

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

> "a) For issuance of a writ or order or direction in the nature of certiorari or quashing of the order number 33/GST/JC/2024-25 dated 21.08.2024 and the summary of order issued in form GST DRC-07

dated 29.08.2024 passed and issued by the respondent number 3 in exercise of powers under section 73 read with section 122 read with section 50 of the Central Goods And Services Tax Act 2017 (hereinafter referred to as the central act of 2017 for short) and section 20 of the Integrated Goods And Services Tax Act 2017 (hereinafter referred to as the integrated act 2017 for short) whereby liability of tax, interest and penalty has been imposed for the financial year 2019-2020 in gross violation of the principles of natural justice;

b) For further issuance of a writ or order or direction restraining the respondents from taking any coercive action against the petitioner for recovery of the amount of tax, interest and penalty imposed in terms of the impugned order dated 21.08.2024 passed by the respondent of the 3 with respect to financial year 2019-2020;

c) For further holding and a declaration that the show cause notice issued by the respondent number 3 in form GST DRC-01 dated 22.08.2024 fixing the same date of reply also as 22.08.2024 is in teeth of section 73 (8) of the central act 2017 and as such the whole proceeding initiated and concluded on the basis thereof is non-est, illegal and wholly without jurisdiction in the eye of law;

d) For further holding and a declaration that the impugned order dated 21.08.2024 is thoroughly illegal, arbitrary and unreasonable in view of the show cause notice dated 22.08.2024 as the impugned order preceded the said show cause notice rendering the whole procedure taken up by the respondent number 3 to be and eye wash and mere formality as the petitioner suffered complete denial of any opportunity to place its case in the whole proceeding;

e) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

2. Show cause notice was issued to the petitioner on 20.05.2024 for the Financial Year 2019-20. The petitioner has submitted explanation/clarification on 15.07.2024, the same

has been taken note of and proceeded to pass final demand order on 21.08.2024. When things stood, thus, inadvertently second show cause notice was issued on 22.08.2024 due to technical glitch during the Devo Migration Process. Resultantly, one more final order has been passed on 29.08.2024 (stated to be summary order of 21.08.2024).

3. Be that as it may, once the final order has been passed on 21.08.2024, whatever the subsequent action taken by the respondents are in nullity, accordingly, they are set aside.

4. Petitioner is at liberty to invoke remedy of appeal before the appellate authority insofar as assailing the final demand order dated 21.08.2024. If such memorandum of appeal is filed before the appellate authority, the appellate authority is hereby directed to take note of time spent in the present petition for the purpose of condonation of delay under Section 14 of the Limitation Act, 1963. If there are any hurdle insofar as filing of appeal against the order dated 21.08.2024 on behalf of the respondents, the concerned officer shall redress the same so as to enable the petitioner to prefer memorandum of appeal against the order dated 21.08.2024. If such appeal is filed, the appellate authority is requested to

decide the petitioner’s appeal within a reasonable period of time of three months from the date of receipt of memorandum of appeal.

5. With the above observation, the writ petition stands disposed of.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.04.2025
Transmission Date	NA