IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19159 of 2024

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Vaishnodevi Adivsory Private Limited through its Director Jaydeep Dhanuka, Male, aged about 33 years, S/o - Jagdish Chand, Resident of Vaishnodevi Niwas, Bhagat Singh Sarani, Lane No.3, Punjabi Para, P.S. - Siliguri (M.Corp), District- Darjeeling, West Bengal - 734001, having its registered place of Business at 1 Kurlikot Thakurganj, Kishanganj, Bihar - 855116.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Finance Department, Old Secretariat, Patna, Bihar 800015.
2. The Additional Commissioner of State Tax, Appellate Authority, Mariam Nagar, Purnea Division, Purnea, Bihar - 854301.
3. The Joint Commissioner of State Tax, Kishanganj Charge, Kishanganj, Bihar 855107.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 18690 of 2024

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Vaishnodevi Advisory Private Limited through its Director Jaydeep Dhanuka, Male, aged about 33 years, S/o- Jagdish Chand, Resident of Vishnodevi Niwas, Bhagat Singh Sarani, Lane No.3, Punjabi Para, P.S.- Siliguri (M.Corp), District - Darjeeling, West Bengal- 734001, having its registered place of Business at 1 Kurlikot Thakurganj, Kishanganj, Bihar - 855116.

... ... Petitioner/s

Versus

1. The Additional Commissioner of State Tax, Appellate Authority Mariam Nagar, Purnea Division, Purnea, Bihar - 854301.
2. The Joint Commissioner of State Tax, Kishanganj Charge, Kishanganj, Bihar 855107.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 18761 of 2024

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Vaishnodevi Advisory Private Limited through its Director Jaydeep Dhanuka, Male, aged about 33 years, S/o Jagdish Chand, Resident of Vaishnodevi Niwas, Bhagat Singh Sarani, Lane No. 3, Punjabi Para, P.S. - Siliguri (M.Corp), District- Darjeeling, West Bengal- 734001, having its registered place of Business at 1 Kurlikot Thakurganj, Kishanganj, Bihar - 855116.

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Versus

1. The State of Bihar through the Principal Secretary, Finance Department, Old Secretariat, Patna, Bihar 800015.
2. The Additional Commissioner of State Tax, Appellate Authority, Mariam Nagar, Purnea Division, Purnea, Bihar - 854301.
3. The Joint Commissioner of State Tax, Kishanganj Charge, Kishanganj, Bihar

855107.

... ... Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 19159 of 2024)

For the Petitioner/s	:	Mr.Vinay Shraff, Sr. Advocate Mr.Puneet Siddhartha, Advocate Mr.Amit Kr. Singh, Advocate Mr.Aryan Sinha Mr.Amit Kumar Singh Md.Zeeshan Khan
For the Respondent/s	:	Mr.Standing Counsel (11)

(In Civil Writ Jurisdiction Case No. 18690 of 2024)

For the Petitioner/s	:	Mr.Puneet Siddhartha, Advocate Mr.Aryan Sinha, Advocate Mr.Amit Kumar Singh, Advocate Md.Zeeshan Khan, Advocate
For the Respondent/s	:	Mr.Standing Counsel (11)

(In Civil Writ Jurisdiction Case No. 18761 of 2024)

For the Petitioner/s	:	Mr.Puneet Siddhartha, Advocate Mr.Aryan Sinha, Advocate Mr.Amit Kumar Singh, Advocate Md.Zeeshan Khan, Advocate
For the Respondent/s	:	Mr.Standing Counsel (11)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL JUDGMENT

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

Date : 18-03-2025

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

> *"(i) To issue rule in the nature of certiorari or any other appropriate & setting aside the order passed in Form GST APL 04 being Appellate Order bearing Reference No. ZD100724032096T dated 22.07.2024 by the Respondent no. 2 being Annexure P-1 hereof.*
>
> *(ii) To issue rule in the nature of certiorari or any other appropriate writ, order or direction, quashing & setting aside the order passed in Form GST-RFD-06 being Refund Rejection Order bearing order number*

> *ZD101223005975T dated 06.12.2023 by the Respondent no. 3 being Annexure P-2 hereof."*

2. Petitioner claimed for refund of ITC on export of goods without payment of integrated tax which is stated to be valued at Rs.44,44,328/- the same has been rejected. In the meanwhile, show-cause notice has been furnished to the petitioner furnishing certain material information. The petitioner had submitted material information except stating that agreement between the petitioner and buyers. It is admitted fact that agreement between the seller and buyer is not mandatory. However, perusal of the rejection order, it is evident that while rejecting the petitioner's refund claim certain extraneous material has been taken into consideration without providing opportunity of hearing to the petitioner or submission of explanation on such material informations.

3. Feeling aggrieved by the refund rejection order dated 05.12.2023, the petitioner preferred appeal before the appellate authority and appellate authority affirmed the order of refund rejection order by its order dated 22.07.2024. Hence, the present writ petition.

4. Learned counsel for the petitioner vehemently contended that he had submitted reply to the show-cause notice along with the material information except stating that there is no agreement between the petitioner and buyers and it is not mandatory requirement for the purpose of claiming refund. It is submitted that in the refund rejection order, extraneous material has been taken into consideration which were not part and parcel of show-cause notice. In other words, petitioner has not been provided an opportunity of submission of his explanation to such of those extraneous material which has been taken into consideration in the order of refund rejection order. The same was not appreciated by the Appellate Authority on these counts impugned decision dated 05.12.2023 & 22.07.2024 are liable to be set aside.

5. *Per contra*, learned counsel for the respondents submitted that sufficient material has been shown in the impugned order of refund of rejection order. In this regard, it was bounden duty of the petitioner to furnish those material information which were short coming. That apart, Appellate Authority has affirmed the order of refund of rejection order. Therefore, no interference is called for.

6. Heard learned counsels for the respective parties.

7. Core issue involved in the present *lis* is whether order of refund rejection order dated 05.12.2023 in which extraneous material has been taken into consideration or not? As is evident from the show-cause notice read with the petitioner's explanation. Joint Commissioner of State Tax, Kishanganj Charge, Kishanganj, Bihar is exercising quasi-judicial function under the GST Act. He has taken extraneous material while passing order on 05.12.2023 and the same has been appreciated by the Appellate Authority in its order dated 22.07.2024. The Hon'ble Supreme Court in the case of **Oryx Fisheries Private Ltd. vs. Union of India & Ors.** reported in **(2010) 13 SCC 427,** in para 40, it is held as under:-

> *"40. In Kranti Associates this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below :*
>
> *(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.*
>
> *(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, EHRR at p. 562, para 29 and Anya v. University of Oxfords, 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'.*
>
> *(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'."*

8. In the light of the aforementioned principles read with facts in the present case, petitioner has made out a case so as to interfere with the impugned action of the respondents. Accordingly, so called refund rejection order of the Joint Commissioner of State Tax, Kishanganj Charge, Kishanganj, Bihar treated as a further show-cause notice to the petitioner and petitioner is hereby directed to furnish his explanation along with documents, if any, within a period of eight weeks from the date of receipt of this order. Thereafter, Joint Commissioner of State Tax, Kishanganj Charge, Kishanganj, Bihar is hereby directed to pass a detailed speaking order while taking note of the principle laid down by the Hon'ble Supreme Court in the cited decision and proceed to consider each of the contention to be raised by the petitioner against the treated show-cause notice dated 05.12.2023.

9. CWJC No. 19159 of 2024 is allowed in part.

Re:CWJC Nos. 18690 of 2024 & 18761 of 2024

10. CWJC No. 18690 of 2024 and CWJC No. 18761 of 2024 are allowed in part in terms of order passed in CWJC No. 19159 of 2024, while set aside the Appellate Authority order and so called refund rejection order treated as show-cause notice. Rest of the order in so far furnishing explanation and passing speaking order in terms of lead CWJC No. 19159 of 2024.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

abhishekkr/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.03.2025
Transmission Date	NA