IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1982 of 2026

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M/S Kishan Cement Stores having GSTIN- 10BNCPK1349A1ZW proprietary concern having its office at - village- Sikandra, Police Station - Sikandra, District- Jamui, Bihar, 811315 through its proprietor Ranjit Kumar, Gender- Male, aged about 51 years, Son of Shri Ayodhya Mahto, Resident of village- Sikandra, Post- Sikandara, Police Station- Sikandra, District- Jamui, Bihar- 811315.

... ... Petitioner

Versus

1. The State of Bihar through The Principal Secretary, State Tax, Bihar, Patna having its Office at Kar Bhawan, Patna.
2. The Principal Secretary Cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Joint Commissioner of State Tax, Jamui Circle, Jamui.
4. The Deputy Commissioner of State Tax, Jamui Circle, Jamui, Bihar.

... ... Respondents

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Appearance :

For the Petitioner	:	Mr. Manish Kumar, Advocate
For the State	:	Mr. Vikash Kumar, Standing Counsel (11)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 11-05-2026 Heard learned counsel for the petitioner and learned SC-11 for the State.

2. The petitioner in this writ application is seeking the following reliefs:-

> "i) For issuing of a writ of certiorari or any other appropriate writ quashing/ setting aside the Summary of Show cause Notice for Penalty in the form of DRC-01 vide Reference No- ZD101025012053I dated 13.10.2025 and Show Cause Notice in FORM GST MOV-07 vide

Process No: Nil dated 13.10.2025 (as contained in Annexure-P1D and Annexure-P1E) which was issued by the Respondent No. -4 without affording any opportunity of hearing in violation of S 129(4) BGST/CGST Act, 2017 which render the entire proceedings of Respondent No- 4 violative of principles of natural justice and thus liable to be set aside.

ii) For issuing a writ of certiorari or any other appropriate writ quashing/ setting aside the Summary of Show cause Notice for Penalty in the form of DRC-01 vide Reference No- ZD101025012053I dated 13.10.2025 and Show Cause Notice in FORM GST MOV-07 vide Process No: Nil dated 13.10.2025 (as contained in Annexure-P1D and Annexure-P1E) issued by the Respondent No-4 were not lawful as goods detained by him was backed by valid tax paid invoice and E-way bill which had just expired during transportation due to some technical snag in the vehicle and there was no intention to evade tax by the petitioner and e way bill had just expired and this e way bill could not be extended in time as the vehicle was on the way to destination and not taking notice of the reply submitted by the petitioner to the show cause notice renders the entire proceedings of Respondent No-4 get invalid and thus liable to be set aside.

iii) For issuance of appropriate direction or any other appropriate writ to the Respondents to refund the penalty amount of Rs.2,00,090.00/- paid under CGST and BGST Act, 2017 along

> with interest which was **deposited under duress** as goods in transportation was urgently needed for business purpose and goods in transportation was covered by tax invoice and E Way Bill.
>
> iv) For granting any other relief (s) to which the petitioner is otherwise found entitled to in accordance with law."

3. It is the case of the petitioner that he was compelled to pay the penalty amount of Rs.2,00,090/- under the Central Goods and Services Tax/Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST/BGST Act, 2017') along with interest deposited under duress as the goods in transportation was urgently needed for business purpose. This Court has found that while making that payment, the petitioner had not raised any protest.

4. Learned SC-11 representing the State has drawn the attention of this Court towards Form GST MOV-05 dated 13.10.2025 (Annexure 'P3A') which is a release order. Annexure 'P3A' dated 13.10.2025 reads as under:-

"**FORM GST MOV-05**

OFFICE OF DEPUTY COMMISSIONER OF STATE TAX

JURISDICTION: JAMUI, STATE/UT: BIHAR

ADDRESS: -NA-

RELEASE ORDER

No.: ZD1010250120695 Date: 13/10/2025

Case ID: AD1010250022254

To,
RANJIT KUMAR
10BNCPK1349A1ZW
0, sikandra, sikandra, Jamui, Bihar, 811315

Ref: FORM GST MOV-02 No: ZD101025011993X dated: 13/10/2025

The goods conveyance bearing No. JH15AC7947 carrying goods was inspected by me SUNIL KUMAR, Deputy Commissioner of State Tax on 11/10/2025 and after inspection, an order of detention was issued in **FORM GST MOV-06** on 13/10/2025 and a notice in **FORM GST MOV-07** was served on the Person-in-Charge of the conveyance on 13/10/2025. The owner or Person-in-Charge of the conveyance has-

a. come forward and made the payment of tax and penalty as proposed and proceedings is drawn in this regard.

In view of the above, the goods and conveyance are hereby released on 13/10/2025 at 19:27 HRS in good condition.

Signature
Name: SUNIL KUMAR
Designation: Deputy Commissioner of State Tax

Enclosure/s:
MOV-05

ACKNOWLEDGEMENT:

I hereby duly declare that I have received a copy of the above order.

Signature of the Owner/Person-in-Charge"

5. On the strength of the aforesaid release order (Annexure 'P3A'), learned SC-11 submits that by virtue of sub-section (5) of Section 129 of the CGST Act, 2017, on payment of the amount, all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded. In his submissions, in this case the proceeding stood concluded on 13.10.2025. Almost after four months from the date of the conclusion of the proceeding, the petitioner has filed this writ application. It is submitted that if at all the petitioner was aggrieved by the order imposing penalty, he could have preferred an appeal within the prescribed period of three months but having failed to do so, he has chosen to file this writ application. It is his submission that such writ applications are required to be discouraged.

6. Having regard to the entire facts and circumstances of the case, we are of the considered opinion that the writ application as framed in the facts of the present case need not be entertained. The order of release (Annexure 'P3A') is dated 13.10.2025. A reading of the same would show that on receipt of a notice in Form GST MoV-07, the Person-In-Charge of the conveyance on 13.10.2025 came forward and made payment of the tax and penalty as proposed. In view of the said readiness of the Person-In-Charge of the conveyance to deposit the tax and penalty amount, the competent authority accepted the same and directed for release of the goods and conveyance. Learned counsel for the petitioner is unable to demonstrate from the records that at the relevant point of time, the petitioner had made any protest. The order of the competent authority is an appealable order under Section 107 of the CGST/BGST Act, 2017. The appeal could have been preferred within a period of three months but the petitioner chose not to file any appeal within the prescribed period.

7. In such circumstance, this Court is of the considered opinion that filing of the writ application directly before this Court without availing the statutory remedy of appeal is required to be discouraged, more so where the petitioner is unable to demonstrate violation of principles of natural justice or any jurisdictional error.

8. In result, we find no merit in the writ application. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

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