IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4763 of 2026

M/s Bhardwaj Construction through its Partner Kamlesh Kumar, aged about 48 Years, (Male) Son of Ramashrary Singh, Resident of 286, AP Colony, P.S.- Rampur, District- Gaya Ji.

... ... Petitioner

Versus

1. Union of India through the Principle Secretary, Ministry of Finance (Department of Revenue) Government of India, New Delhi.
2. The Principal Secretary, Department of Finance, Government of India New Delhi.
3. The State of Bihar through its Additional Chief Secretary, Department of Finance Government of Bihar, Patna.
4. The Additional Chief Secretary, Department of Finance, Government of Bihar, Patna.
5. The Commissioner, State Tax, Magadh Circle, Gaya Ji.
6. The Additional Commissioner (Appeal) State Tax, Magadh Division, Gaya Ji.
7. The Joint Commissioner, State Tax, Gaya Ji.
8. The Assistant Commissioner State Tax, Gaya Ji.

... ... Respondents

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Advocate
		Mr. Priya Ranjan, Advocate
		Ms. Sakshi Kumari, Advocate
For the State	:	Mr. Vivek Prasad, Advocate, GP 7
For Union of India	:	Mr. Amit Pandey, Advocate
For the CGST	:	Ms. Ruchi Mandal, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 06-07-2026 Heard learned counsel for the parties.

2. The grievance of the petitioner is against the order as contained in Annexure- P/2 passed under Section 73 of the Bihar Goods and Services Tax Act, 2017 (in short 'BGST Act'). It is submitted that the credit taken by the petitioner of the tax

invoices/ debit notes were disallowed on the ground that the availment of the tax invoices/ debit notes were beyond the prescribed period/ extended period prescribed under Section 16(4) of the BGST Act.

3. Learned counsel for the petitioner submits that although Annexure P/2 was passed sometime on 06.03.2020 but the recovery has been made at this stage. The petitioner has drawn the attention of this Court towards circular no. 237/31/2024-GST dated 15th October, 2024 issued by the Government of India in Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs GST Policy Wing. It is submitted that by this circular, clarifications have been given to with regard to the implementation of the provisions of sub-Section (5) and sub-Section (6) of Section 16 of the Central Goods and Services Tax Act, 2017 (in short 'CGST Act'). According to the circular, sub-Section (5) and sub-Section (6) of Section 16 of the CGST Act have been inserted in Section 16 of the CGST Act with effect from the 1st day of July, 2017, vide Section 118 of the Finance (2) Act, 2024 whereby the time limit to avail input tax credit under provisions of sub-Section (4) of Section 16 of the CGST Act has been retrospectively extended in certain specified cases.

4. Learned counsel submits that the case of the petitioner would be covered under the retrospectively extended time limit. It is, thus, submitted that the order, as contained in Annexure P/2, is fit to be quashed and the amount recovered from the petitioner be refunded to the petitioner with statutory interest.

5. Mr. Vivek Prasad, learned GP 7 represents the State. Referring to the same circular, learned GP 7 points out Paragraph '3.5' which reads as under:-

> *"where order under section 73 or section 74 of the CGST Act has been issued but no appeal against the said order has been filed with the Appellate Authority, or where the order under section 107 or section 108 of the CGST Act has been issued by the Appellate Authority or the Revisional Authority but no appeal against the said order has been filed with the Appellate Tribunal:*
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> *In such cases, where any order under section 73 or section 74 or section 107 or section 108 of the CGST Act has been issued confirming demand for wrong availment of input tax credit on account of contravention of provisions of sub-section (4) of section 16 of the CGST Act, but where such input tax credit is now available as per the*

provisions of sub-section (5) or sub-section (6) of section 16 of the CGST Act, and where appeal against the said order has not been filed, the concerned taxpayer may apply for rectification of such order under the special procedure under section 148 of the CGST Act notified vide Notification No. 22/2024-Central tax dated 08.10.2024, within a period of six months from the date of issuance of the said notification."

6. Under Paragraph 3.5.1 to Paragraph 3.5.5, the procedures for filing of an application for rectification of an order issued under Section 73 or Section 74 of the CGST Act have been provided. It is his submission that instead of filing an application for rectification before the competent authority, petitioner has chosen to prefer a writ application. It is further submitted that this Court sitting in its writ jurisdiction need not examine as to whether the case of the petitioner would fall within the specified cases which would be covered under the retrospectively extended time limit.

7. Having regard to the entire facts and circumstances, the pleadings available on the record and the submissions of learned counsel for the parties, we are of the considered opinion that the contentions of the petitioner may be examined by the competent authority, if the petitioner prefers an application

seeking rectification as provided under Paragraph 3.5 of the circular (Annexure P/1).

8. We grant liberty to the petitioner to file a rectification application within one month from today before the competent authority. If such an application is preferred within the given period, the competent authority shall examine the application, give an opportunity of hearing to the petitioner and pass an appropriate order in accordance with law within a period of three months from the date of filing of the rectification application.

9. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

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