IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4911 of 2026

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Systematic and advance construction Private Limited having its head office at Triveni Niwas, flat number 101, RK Avenue road, Rajendra Nagar, Patna -800016 through its authorised representative namely Ram Shankar male aged about 38 years son of Damodar Prasad Gupta resident of Krishna Bhawan, behind JTC Fraser Road, Patna, Bihar-800001.

... ... Petitioner/s

Versus

1. The State of Bihar Through The Commissioner, Department Of State Taxes, New Secretariat, Bailey Road, Patna.
2. The Commissioner, Department of State Taxes, New Secretariat, Bailey Road, Patna.
3. The Additional Commissioner of State Taxes (Appeals), Patna East Division, Patna.
4. The Joint Commissioner of State Taxes, Kadam Kuan Circle, Department Of State Taxes, Patna.
5. The Assistant Commissioner of State Taxes, Kadam Kuan Circle, Department Of State Taxes, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kejariwal, Adv.

For the State : Ms. Roona, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

3 15-04-2026 The present writ petition has been filed seeking the following reliefs:-

"1(a). For issuance of a writ or order or a direction restraining the Respondents especially the respondent

number 5 from proceeding to execute and enforce the order dated 01.02.2025, passed under section 74 (9) and the summary of order issued in form GST DRC-07 dated 01.02.2025 with respect to financial year 2017-2018 (July 2017 to March 2018), passed under section 74 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the Central Act, 2017" for short) affirmed in appeal vide order dated 22.07.2025 by the Additional Commissioner of State taxes (Appeals), Patna East Division, Patna;

(b) For further issuance of a writ or order or a direction in the writ of certiorari for quashing of the reminders dated 09.02.2026, 24.02.2026 and 05.03.2026, issued by the respondent number 5 thereby, the petitioner has been called upon to make payment of the amount determined in terms of the impugned order dated 01.02.2025 later affirmed in appeal vide order dated 22.07.2025, which absolutely illegal, unreasonable and arbitrary in view of non-availability of the remedy of further appeal under Section 112 of the Central Act, 2017 in the present due to the absence of learned GST Tribunal in the Tstate of Bihar.

(c) For further holding and a declaration that the respondents especially the respondent number 5 may not be permitted to enforce the demand of tax, interest and penalty determined in terms of the order dated 01.02.2025 later affirmed in appeal vide order dated 22.07.2025 in absence of the statutory remedy of further appeal available to the petitioner in terms of Section 112 of the Central Act, 2017 and therefore the impugned reminders issued by the respondent number 5 are wholly arbitrary, unreasonable and fit to be quashed and set aside by this honourable court;

d) For further restraining the respondents from taking any coercive action against the petitioner in terms of Section 79 of the Central Act, 2017 for recovery of the demand in terms of the order dated 01.02.2025 later affirmed in appeal vide order dated 22.07.2025 till the *petitioner avails statutory remedy of appeal under section 112 of the Central Act, 2017 upon Constitution and functioning of learned GST Tribunal, Bihar."*

2. At the outset, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to challenge the appellate order dated 22.7.2025, passed by the learned Additional Collector (Appeal)-State Tax, Patna East Division, Patna in Appeal Case No. GST/PK-07/2025-26 by availing the remedy provided for under Section 112 of the Bihar Goods and Services Act, 2017. Liberty, so sought, is granted.

3. At this juncture, the learned counsel for the petitioner submits that the petitioner be protected, inasmuch as he has already deposited the original tax liability to the tune of Rs. 63,50,592/- against each head, however the authorities are demanding interest / penalty over the delayed payment of the said amount.

4. We find that the amount of pre-deposit for the purposes of filing an appeal under Section 112 of the Central/ Bihar Goods and Services Tax Act, 2017 is provided for under Section 112 (8) of the said Act, 2017, hence subject to the said pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal, as is provided for under Section 112 (9) of the Central/ Bihar Goods

and Services Tax Act, 2017.

5. Accordingly, the present writ petition stands disposed off.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

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