IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8239 of 2025

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Kumar Mritunjay Construction Private Limited, a private limited company, registered under companies act, 1956 having its office at Near State Bank of India, C/o Muneshwar Prasad Singh, Nai Sarai, Biharsharif, Nalanda, Bihar, PIN-803101 through its Director, Kumar Mritunjay (Male) (aged about 57 years) son of Late Tejnarayan Singh, resident of Near State Bank of India, Nai Sarai, Biharsharif, Nalanda, Bihar, PIN-803101.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Tax, having its office at Vikas Bhawan Bailey Road, Patna.
2. Deputy Commissioner of State Tax, Biharsharif, Patna East, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sadashiv Tiwari, Adv.
For the State	:	Mr. Kumar Vivek, GA-7
For the CGST	:	Ms. Shilpi Keshri, Adv.

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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 learned counsel for the Respondent-State seeks to file a supplementary counter affidavit, copy whereof has already been filed online. Let the same be kept on record.

2. The present writ petition has been filed seeking the following reliefs:-

"1(i). For issuance of a writ or order or a direction in the nature of certiorari for quashing of the order dated 23.07.2024 and the summary of order issued in form GST DRC 07 dated 23.07.2024 (as contained in Annexure-P4), passed and issued by the Respondent No. 2 under section 73 of the Bihar goods and services Tax Act, 2017 (hereinafter called the Act) and also the order, passed by

the respondent against the principles of natural justice and statutory notice as mandated in section 75(4) of the Act.

(ii). For further issuance of a writ or order or a direction restraining the respondents from taking any coercive action against the petitioner in terms of section 79 of the BGST Act, 2017 for recovery of the amount of tax, interest & penalty determined in terms of the impugned order dated 23.07.2024 and the summary of order issued in form GST DRC-07 dated 23.07.2024."

3. Though a counter affidavit has been filed in the present case, however it has been brought to our notice by the petitioner by filing a supplementary affidavit that the assessment order pertains to a period post cancellation of registration of the company of the petitioner, inasmuch as the registration was cancelled on 11.9.2020.

4. The learned counsel for the Respondents submits that though it is true that as per Section 29(3) of the Bihar/ Central Goods and Services Act, 2017 (hereinafter referred to as "the Act, 2017"), the cancellation of registration shall not effect the liability of the person to pay tax and other dues under the Act, 2017 or to discharge any obligation under the Act, 2017 or the Rules made thereunder for any period prior to the date of cancellation, however Section 63 of the Act, 2017 empowers proper officer to proceed to assess the tax liability of such taxable person for the relevant tax period, whose registration has

been cancelled or who has failed to obtain registration, but has still continued to carry on business even after cancellation of registration, by issuing an assessment order within a period of five years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

5. Thus, it is submitted by the learned counsel for the Respondent-State that the impugned assessment order dated 22.7.2024, passed under the pen and signature of the Deputy Commissioner of State Tax, Biharsharif Circle, Biharsharif and the demand order dated 23.7.2024, issued under the pen and signature of the Deputy Commissioner of State Tax, Biharsharif, Patna East, Bihar be quashed and the matter be remanded to the assessing authority for enabling him to issue fresh show cause inviting objections from the petitioner and after giving him an opportunity of hearing, he shall pass fresh assessment order.

6. Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the Respondents, the assessment order dated 22.7.2024, passed by the Deputy Commissioner of State Tax, Biharsharif Circle, Biharsharif and the demand order dated 23.7.2024, passed by the Deputy Commissioner of State Tax, Biharsharif,

Patna East, Bihar are quashed and the matter is remanded back to the concerned assessing officer, who shall within a period of four weeks from today issue fresh show cause to the petitioner for the tax period April, 2023-June, 2023, inviting objections and after granting an opportunity of hearing to the petitioner, appropriate assessment order shall be passed within a period of eight weeks, thereafter.

7. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

Ajay/-

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