IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8387 of 2026

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Madhu Sudan Periwal Son of Late Suresh Periwal, (Proprietor of M/S Tirupati Distributors), resident of Deepak Pharmaceuticals SSC Goswami Road Panbazar Guwahati, Kamrup Metro, Assam-781001, (GSTIN 10AHCPP9269KIZI).

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Tax, Bihar, Patna.
2. The Joint Commissioner of State Tax, Patna South Circle-2, Kautilya Bhawan, Patna, Bihar.
3. The Assistant Commissioner of State Tax, Patna South-2, Patna West, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Hasnain Haider, Adv.
For the Respondent/s	:	Mr. Government Pleader (7)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
and
HONOURABLE MR. JUSTICE VIKASH KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA)

2 15-07-2026 The petitioner has filed the present writ application for quashing the order of demand dated 24.02.2025, passed by respondent no. 3 under Section 73 (9) of the Central Goods and Services Tax Act, 2017/ State Goods and Services Act, 2017, by which a late fee of Rs. 2,00,000/- has been imposed upon the petitioner.

2. Learned counsel for the petitioner submits that the petitioner is a proprietorship firm under the name and style of "M/S Tirupati Distributors" and is engaged in the business of medicines. The petitioner has been registered under G.S.T

having G.S.TIN No. 10AHCPP9269KIZI.

3. Learned counsel for the petitioner submits that determination of tax and penalty has come to a naught but, a late fee of Rs. 2,00,000/- has been imposed under Section 47 of the Central Goods and Services Act, 2017. The assessment of levy done under Section 73 (9) is without jurisdiction and the fine cannot be levied under Section 73 of the Act.

4. He further submits that tax period is of 2020-2021 and the demand of late fee is only without jurisdiction. Section 73(1) of the Act restricts its applicability to the situation where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized. The scope of statutory provision under Section 73(1) is limited to the imposition of tax and input tax credit and omits the adjudication or recovery of late fee from its ambit.

5. Learned counsel for the State argued that the demand notice for late fee is dated 24.02.2025, against which the petitioner could have filed appeal within 90 days + 30 days, but the petitioner has not filed appeal and has directly after lapse of about one year has filed the present writ application.

6. Learned counsel for the State further submits that there is specific provision under Section 47 of the Central

Goods and Services Act, 2017/State Goods and Services Act, 2017 for levying late fee. Since the petitioner has not filed his return, as such during assessment under Section 73, it was found that the late fee is liable to be levied against the petitioner.

7. Considering the rival submission of the parties and the fact that the petitioner failed to file return during the tax period of 2020-2021 and the respondent authority after issuing show-cause notice to the petitioner has assessed the tax as well as late fee amount under Section 73 read with Section 47 of the Act. Accordingly, we do not find any infirmity in the demand notice, the present writ application, having no merit, is dismissed.

(Anil Kumar Sinha, J)

(Vikash Kumar, J)

Ashwin/-

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