IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9622 of 2025

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M/s. Kuber Metal and Power Trading having its office at- 18/206, New Bangali Toal, Near Devi Sthan, Karbigahiya, G.P.O., Patna- 800001 through its Proprietor Vikash Kumar (Male), aged about 25 years, S/o Pramod Kumar Yadav, Resident of 18/206, New Bangali Tola, Devi Sthan, Postal Park, P.S.- Jakkanpur, District- Patna, Bihar.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Revenue, Industry of Finance, North Block, New Delhi- 110001.
2. The Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.
3. The State of Bihar, through the Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
4. The Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
5. The Additional Commissioner of State Taxes (Appeals), West Division, Patna.
6. The Deputy Commissioner State Taxes, South Circle-1, Patna, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madan Kumar, Advocate
For the UOI	:	Mr. Amit Pandey, Sr. SC, CGST
		Mr. Rakesh Kr. Advocate
		Ms. Asmita Sinha, Advocate

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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)

2 25-03-2026 The present writ petition has been filed seeking for the following reliefs:-

"(i) For issuing a writ of certiorari or any other appropriate writ quashing/setting aside the assessment order dated 12.02.2024 (Annexure-P/1) passed by Respondent No. 6 for the period of Oct-2019 to Jan-2020 (F.Y 2019-20)

whereby and whereunder an ex-parte assessment order has been passed for the aforesaid period and thereby a total liability of Rs.16,26,025/- (with breakup as (a) Tax IGST worth Rs.9,65,000/- (b) Interest worth Rs.5,64,525/- and (c) Penalty worth Rs.96,500/-), has been imposed on the petitioner;

(ii) For issuing a writ of certiorari or any other appropriate writ quashing/ setting aside the demand issued in form DRC 07- dated 12.02.2024 (Ref No. ZD1002240092736) (Annexure -P/2) i.e. by Respondent No. 6 for the period of Oct-2019 to Jan-2020 (F.Y 2019-20) whereby and whereunder the demand order DRC 07 has been issued under Sec 73(1) of the CGST/BGST Act, 2017 for the aforesaid period. Through the said DRC-07 a demand has been raised for the aforesaid period a total liability of Rs.16,26,025/- (with breakup as-(a) Tax IGST worth Rs.9,65,000/- (b) Interest worth Rs.5,64,525/- and (c) Penalty worth Rs.96,500/-) has been imposed on the petitioner;

(ii) For issuing a writ of certiorari or any other appropriate writ quashing/setting aside the Appellate order bearing No. 8360 dated 30.01.2025 (Annexure-P/3) passed in Appeal Case No. AD100524004009T dated 11.05.2024 by Respondent No.5 for the October 2019 to January 2020 (F.Y - 2019-20 whereby and whereunder the appellate authority i.e. Respondent No.5 has rejected (affirming the original adjudication order and demand and modifying the interest until the date of passing the appeal order) the appeal preferred by the petitioner without considering the fact of case and material available on record;

(iv) For issuing a writ of certiorari or any other appropriate writ quashing/setting aside the APL-04 bearing No. ZD1002250003955 dated 01.02.2025 (Annexure-P/4)

passed in Appeal Case No. AD100524004009T by Respondent No.5 for the October 2019 to January 2020 whereby and whereunder the appellate authority i.e. Respondent No.5 has rejected (affirming the original adjudication order and demand and modifying the interest until the date of passing the appeal order) the appeal preferred by the petitioner without considering the fact of case and material available on record; the aforesaid demand has been modified and APL-04 has been issued worth Rs.17,70,775/- (with breakup as-(a) Tax IGST worth Rs.9,65,000/- (b) Interest worth Rs.7,09,275l- and (c) Penalty worth Rs.96,500/-)

(v) For issuing a writ of mandamus or any other appropriate writ directing the Respondents not take any coercive action including recovery from bank account and third parties until pendency of the present writ application;

(vi) For issuing writ of mandamus and thereby directing the Respondents to refund a sum of Rs.96,500/- (IGST); which was deposited by the petitioner as 10% (ten percent) of disputed tax amount as needed to be paid as pre-deposit (Section 107(6)(b) of Central Goods and Service Tax Act, 2017) before filing an appeal under CGST/SGST for the aforesaid period i.e. October 2019 to January 2020 (F.Y.-2018-19;

(vii) For holding that the impugned ex-parte assessment order dated 12.02.2024 (Annexure P/1) and the appellate order dated 01.02.2025 (Annexure P/3) have been issued in most illegal manner by Respondent No.6 and 5 without examining the records and without appreciating the supporting materials submitted during the course of personal hearing in appeal; as also without delving into the merit of the case;

(viii) For holding that the Respondents have

wrongly construed the cancellation of GST Registration of the supplier of petitioner with retrospective date for denial of ITC claim of the petitioner for the concerned period i.e. October to January, 2020."

2. Admittedly, the appeal filed by the petitioner has been dismissed on merits and the petitioner is having a remedy of filing appeal under Section 112 of the Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the 'Act, 2017').

3. In view of the aforesaid, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to challenge the aforesaid order dated 30.01.2025 passed by the Additional Commissioner of State Tax (Appeals), West Division, Patna in Appeal Case No. AD100524004009T by availing the remedy provided for under Section 112 of the Act, 2017. Liberty, so sought, is granted.

4. Accordingly, the present writ petition stands disposed of.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

GAURAV S./-

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