IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL REVIEW No.187 of 2025

In

Civil Writ Jurisdiction Case No.17860 of 2024

CNR No. BRHC010733652025

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1. The State of Bihar through the Commissioner of State Tax Patna.
2. The Assistant Commissioner of State Tax, Jehanabad, Magadh, Bihar.
3. The Additional Commissioner of State Tax, Magadh Division, Gaya, Bihar.

... ... Petitioner/s

Versus

1. Kaushlendra Kumar a Proprietorship firm having its office at Bazar Samiti, Raja Bajar, Jehanabad, Bihar- 804408 through its Proprietor Kaushlendra Kumar, an adult male,aged about 40 years, son of Madan Sharma, Bazar Samiti, Raja Bazar, Jehanabad, Bihar, 804408.

..Petitioner/Respondent 1st Set/O.P.

2. The Deputy General Manager of Bihar State Building Construction Corporation Limited, PIU, Gaya.

...Respondent/Respondent 2nd Set/O.P.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Ravish Chandra, A.C. to AAG-5

For the Opposite Party/s : Mr.Rudra Pratap Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 27-10-2026

Heard learned counsel for the parties.

2. The present civil review petition has been filed seeking review of the judgment dated 01.05.2025 passed in CWJC No.17860 of 2024 whereby and whereunder the Hon'ble Court

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was pleased to set aside the impugned order contained in Annexure-P1, i.e. the order passed by the appellate authority, dated 30.11.2022 and consequential recovery and the matter was remanded to the appellate authority for a fresh consideration. The Hon'ble Court was further pleased to direct the respondent authorities (petitioners herein) to refund the recovered amount of Rs. 50,75,214/- (Rupees Fifty Lacs Seventy Five Thousand Two Hundred Fourteen) to the writ petitioner (respondents 1st set herein) within a period of two weeks from the date of judgment, failing which interest shall run at the rate of 12% per annum. The Hon'ble Court further directed the respondents (petitioners herein) to pay simple interest at the rate of 6% per annum on the amount recovered from the writ petitioner (respondent No.1) from the date of recovery till the date of refund.

3. Learned counsel for the petitioners submits that despite due diligence, the provisions of Section 150 of the Finance (No.2) Act, 2024 was not brought to the notice of the Hon'ble Court and in absence of proper assistance the Hon'ble Court has been pleased to set aside the impugned order as mentioned aforesaid. Section 150 of the Finance (No.2) Act, 2024 is reproduced hereinbelow:

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"150. *No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had Section 118 been in force at all material times*".

4. Apart from the aforesaid, Section 118 of the Finance (No.2) Act, 2024 is quoted hereinbelow:

*"*118. *In section 16 of the Central Goods and Services Tax Act, with effect from the 1st day of July, 2017, after sub-section (4), the following sub-sections shall be inserted, namely:—*

"(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.

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(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

(i) filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective

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date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.”.

5. Learned counsel for the petitioners further submits that the State Legislature of Bihar had also passed a corresponding amendment to the Bihar Goods and Services Tax Act, 2017, namely, the Bihar Goods and Services Tax (Second Amendment) Act, 2024 (Bihar Act 22, 2024), which was published in the Official Gazette of the Bihar on 09.12.2024. The provisions of the said Act were similar/identical to those of the Finance Act (No.2) of 2024, enacted by Central Legislature, and they came into force from the same dates.

6. Having heard learned counsel for the parties and upon perusal the material available on the record, as well as provisions of Section 118 and 150 of the Finance (No.2) Act, 2024, it appears that Section 118 of the said Act inserted Sub-sections (5) and (6) after sub-section (4) of Section 16 of the Central Goods and

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Services Tax Act, 2017 with effect from 01.07.2017. Further Section 150 of the Finance (No.2) Act, 2024 provides that " *No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had Section 118 been in force at all material times*". Although the aforesaid provisions were brought into force vide S.O.-4253(E) dated 27.09.2024, a conjoint reading of Section 118 and 150 of the Finance (No.2) Act, 2024 indicates the amendment under Section 118 has been given effect from 01.07.2017. In the facts of the present case, process for recovery was initiated by issuance of notice in DRC-13 on 29.12.2022 which was recovered and deposited by Bihar State Building Construction Corporation Ltd. vide letter No.50 dated 09.07.2023.

7. Considering the aforesaid facts, the Appellate Authority is directed to consider the aforesaid relevant provisions while deciding the appeal pending before it. So far as the claim for refund of the recovered amount of Rs. 50,75,214/- (Rupees Fifty Lacs Seventy Five Thousand Two Hundred Fourteen) is concerned, the same shall abide by the final outcome of the aforesaid appeal.

8. Accordingly, the present civil review application stands allowed to the extent indicated above.

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9. Pending application (s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.10.2026
Transmission Date	NA

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