IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18254 of 2025

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M/s Maa Shanti Stores a Proprietorship Firm having GSTIN-10AFFPG9305N1ZK office at Near Jasoiya More, Dani Bigha, Old G.T. Road, Aurangabad, Bihar-824101 through its proprietor Sri Baijnath Prasad Gupta, Gender-Male, aged about 56 years, Son of Sri Deonandan Sao, resident of 55, Nawadih Road, Old Kaji Mohalla, Aurangabad, Bihar-824101.

... ... Petitioner/s

Versus

1. The Union of India through the Finance Secretary, Department of Revenue, Govt. of India, New Delhi.
2. The Government of India, Ministry of Finance (Department of Revenue), through the Director, CBIC, New Delhi.
3. The Principal Commissioner Central GST and Central Excise, (Central GST and Central Excise Department), Central Revenue Building, Beerchand Patel Path, Patna.
4. The Superintendent (Group 9), Central Tax, Audit Circle, Gaya.
5. The Superintendent, Aurangabad, Range-Gaya, Division-Patna-1.
6. The Superintendent of CGST and Central Excise, Gaya Range.
7. The State of Bihar through the Principal Secretary, State Tax, (Department of State Tax) Bihar, Patna having its office at Kar Bhawan, Patna.
8. The Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bijay Kumar Gupta, Adv.
For the UOI	:	Mr. Amit Pandey, Sr. S.C., CGST & CX
	:	Ms. Ruchi Mandal, Jr. S.C.,CGST&C.
		Ms. Asmita Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE RAJ KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

2 08-07-2026 The present writ petition has been filed seeking the following reliefs:-

> *“(i)For the Demand-cum-Show cause Notice (as contained in Annexure-P2) dated 22.05.2025 issued by Respondent No-4 and summaries of Show Cause Notice in form of DRC-01 dated 03.06.2025 and 01.08.2025 (as contained in Annexure-*

P-2A & P-2B) issued by the Respondent No.-05 for demanding tax, interest and late fee amounting to Rs. Rs.6,70,430/- under CGST/SGST/IGST for the period April 2018-March 2019, April 2019-March 2020, April 2020-March 2021, April 2021-March 2022 and April 2022-March 2023 be quashed as the show cause notice and summaries of show cause notices in the form of DRC-01 were issued by a single notice for 5 financial years contrary to provision of section 74(1), (2) & (9) of BGST/CGST Act, 2017 which state that time limit to issue show cause notice is three months prior to the time limit specified in 74 of BGST/CGST Act, 2017 for issuance of the order be set aside and extended period of limitation of five years is not available to the respondents as no fraud, wilful respondents as misrepresentation or suppression of facts has been committed by the Petitioner or has been proved against the petitioner.

ii) For the order in Original dated 30.07.2025 u/s 74(9) BGST/CGST Act, 2017 (as contained as Annexxure-P3) and Summary of the order in the form of DRC-07 Vide Reference No. ZD100825000101E dated 01.08.2025 (as contained Annexure-P-3A) passed by the Respondent No-6 and 5 respectively demanding tax, Interest, Late Fee and penalty amounting to Rs. 6.34,383/- under the CGST/SGST/IGST for the period of April 2018-March 2019, April 2019-March 2020, April 2020-March 2021, April 2021-March 2022 and April-2022-March-23 be quashed as the Demand order and summary of Demand order in the form of DRC-07 were issued by a single order for 5 financial year contrary to provision of section 74 BGST/CGST Act, 2017 which state that the proper officer shall issue the order under sub-section (9) within five years from the due date for furnishing of Annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates to or within five years from the date of erroneous refund be set aside and quashed and extended period of limitation of five years is not available to the respondents as no fraud, wilful misrepresentation or suppression of facts has been committed by the Petitioner or has been proved against the petitioner.

(iii)For issuing a writ of certiorari or any other appropriate writ quashing/ setting aside Circular No.-3./3/2017-GST dated 05.07.2017, Circular No.31/05/2018- GST dated

09.02.2018 and Circular No.169/01/2022 GST dated 12.03.2022 which were issued by the Central Board of Indirect Taxes and Customs (Board) which had no powers to issue the same and based thereon to confer any power of assignment of functions of the 'proper officer' upon Central Tax Officers for issuing any kind of notices, show cause notices and orders under Section 73 and thereby consequent notice, show cause notices and orders of demand are not legally valid and without authority of law (Annexure-P2, Annexure-P2A, Annexure-P2B & Annexure-P3, Annexure-P3A). It is to be submitted that power of appointment of the Board cannot be equated with the power of assignment for qualifying as proper officer.

2. At the outset, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to challenge the orders dated 30.07.2025 and 01.08.2025, passed by the Superintendent of CGST and Central Excise, Gaya Range by filing an appeal under Section 107 of the Central Goods and Services Tax Act, 2017. Liberty so sought is granted.

3. Accordingly, the writ petition stands disposed of.

(Mohit Kumar Shah, J)

(Raj Kumar, J)

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