

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5495 of 2025

M/s Binod Traders, a Proprietary concern having its place of business at Maharajganj, P.S. Maharajganj, District Siwan, through its Proprietor, Sri Binod Kumar Gupta, Aged about 49 Years, Male, Son of Late Shubhash Prasad, Resident of Maharajganj Siwan, P.S. Maharajganj, District Siwan.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Secretary, Ministry of Finance, Government of India, New Delhi.
3. The State of Bihar through the Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna.
4. The Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna
5. The Additional Commissioner, State Tax, Saran Division, Chapra (Saran)
6. The Deputy Commissioner of State Tax, Siwan
7. The Joint Commissioner, State Tax, Siwan Circle, Siwan
8. The Assistant Commissioner, State Tax, Siwan Circle, Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s	:	
For the Petitioner/s	:	Mr.Mohit Agarwal, Advocate
		Mr.Lokesh Kumar, Advocate
		Mr.Vikash khanna, Advocate
For the Respondent/s	:	Mr.Anshuman Singh, SC, CGST &CX
For the State	:	Mr.Vivek Prasad, GP7

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

2 07-05-2025 In the instant petitioner, petitioner has prayed for
the following relief(s):-

*“(a) For quashing the Appellate
Order dated 08.05.2024 issued in Form
APL-02 under the signature of the
Respondent Additional Commissioner,
Appeal, Saran Division, Chapra, Saran*



whereby the same was dismissed by a one line non-reasoned order on the ground of delay in filing of Appeal;

(b) For quashing the ex parte Assessment Order dated 20.09.2023 passed under Section 73(5) of the BGST Act, 2017 by the Joint Commissioner, State Tax, Siwan Circle, Siwan and subsequent demand raised in Form DRC 07 dated 20.09.2023 with respect to Financial Year 2017-18 as the same has been passed without granting any opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 and also without service of any notice, much less, show cause notice by any mode of service as contemplated under Section 169 of the BGST Act, 2017;

(c) For holding that passing of the ex parte impugned assessment order dated 20.09.2023 without granting an opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 is violation of principle of natural justice and the impugned assessment order is liable to be quashed;

(d) For holding that as the Petitioner Firm was not served with the purported show cause notices or the impugned ex parte assessment order by a valid mode of service as contemplated under Section 169 of the BGST Act, 2017, the same amounts to principle of natural justice and the impugned order is liable to be quashed and set aside;

(e) For holding that mere uploading of Notices under the heading of Additional Notices and Orders' on the GST portal cannot be considered to be a valid mode of service of notice as required under Section 169 of the BGST Act, 2017;

(f) For holding that in the facts of the present case, the impugned assessment order dated 03.08.2023 is an



ex parte order as the notices were never served upon the Petitioner firm in terms of Section 169 of the BGST Act, 2017 nor the Petitioner was granted an opportunity of hearing in terms of Section 75(4) of the BGST Act, 2017; and/or for any other relief(s) as Your Lordships may deem fit and proper in the facts of the present case and in the interest of justice.”

2. For the assessment year July, 2017-18 notice was issued on 11.08.2023, the same was uploaded in portal resultantly petitioner was not able to file his reply. Thereafter, final order has been passed by the adjudicating authority under Section 73 of CGST on 20.09.2023. Thereafter, petitioner preferred belated appeal before the Appellate Authority and it has been rejected. Hence, the present writ petition.

3. Core issue involved in the present *lis* is whether uploading of summary show-cause notice in portal would suffice or not? Co-ordinate Bench has taken a decision uploading of show-cause notice in portal would not suffice registered post under acknowledgment and other modes of communication is required to be adhered. The same issue is involved in the present *lis* to the extent summary of show-cause notice dated 11.08.2023 has been uploaded in a portal , resultantly petitioner was unable to file his reply. Thereafter, the concerned authorities have proceeded to pass consequential



orders.

4. In the light of these facts and circumstances, and for non-compliance of Section 169 of Bihar Goods and Service Act, 2017, impugned orders dated 20.09.2023 & 08.05.2024 *vide* Annexure-P/15 & Annexure-P/19 are set aside. Matter is remanded to the concerned authority to issue a fresh summary show-cause notice to the petitioner after providing ample opportunity of reply/hearing and proceed to pass speaking order and communicate the same to the petitioner within a reasonable period of six months from the date of receipt of this order. The petitioner shall co-operate with the respondent authorities.

5. Accordingly, the present writ petition stands allowed in part.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

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