

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3094 of 2025

M/S Satguru Cattle Feeds and Chemoplast a Proprietorship concern having GSTIN- 10BNCPK4807K2Z9, office at Ground, Ward-56 PID No-1410376 Circle-103, C/O Kanchan Singh, RPG Colony Jakariyapur, Post- Bari Pahari, P.S -Transport Nagar, Patna Bihar- 800026 through its proprietor Sujit Kumar, Gender- Male, aged about 40 years, Son of Sri Makeshwar Prasad Sah, Resident of New Mahavir Colony, Mohalla- Beur, Anisabad, Post- Beur, Patna, Bihar- 800002.

... .. Petitioner/s

Versus

- 1. State of Bihar through The Principal Secretary, State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
- 2. The Principal Secretary Cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
- 3. The Union of India through the Under Secretary, Finance Department, Govt. of India, New Delhi.
- 4. The Government of India, Ministry of Finance (Department of Revenue), through the Director, CBIC, New Delhi,
- 5. The Joint Commissioner of State Tax, Department of State Taxes, (Commercial Tax Department), Patna South- 1, Circle, Patna West Division, Bihar.
- 6. The Assistant Commissioner of State Tax, Department of State Taxes, (Commercial Tax Department), Patna South- 1, Circle , Patna West Division, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bijay Kumar Gupta, Adv.
Mr. Manish Kumar, Adv.
For the State : Mr. Vikash Kumar, SC-11
For the UOI : Mr. Anshuman Singh, Sr. SC (CGST)

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 30-07-2025 Heard learned counsel for the petitioner and learned

SC-11 for the State as also the learned senior counsel for the

CGST.



2. The petitioner is aggrieved by and dissatisfied with the order as contained in Annexure P-3 to the writ petition by which the assessing officer has determined the taxes and raised the demand against the petitioner for the year 2017-18.

3. After hearing learned counsel for the petitioner and learned SC-11 for the State respondents, it has been found that the petitioner has not been given an opportunity of personal hearing after filing of the reply to the show cause notice (Annexure- P-2).

4. In the counter affidavit filed on behalf of the State respondents, it is admitted that a reply was filed by the petitioner on 05.10.2023. In fact, the submission is that the date of personal hearing was mentioned in the notice (Annexure-P-2A) dated 28.09.2023.

5. Learned counsel for the petitioner has drawn the attention of this Court towards the general provisions contained in section 75 under Chapter XV of the Central Goods and Services Tax Act, 2017 and Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as 'CGST/BGST Act, 2017'). According to sub-section (4) of section 75 of CGST/BGST Act, 2017, an opportunity of hearing is to be granted where a request is received in writing from the person chargeable with tax or



penalty, or where any adverse decision is contemplated against such person.

6. It is the submission of the learned counsel for the petitioner that his case would fall in the second category even as he has not applied for an opportunity of personal hearing but in his case, if the assessing officer was contemplating passing an adverse decision against him, it was statutory obligation on the assessing officer to provide personal hearing to the petitioner.

7. Learned counsel submits that in Annexure P-2A no doubt, a date of personal hearing is mentioned but that is contrary to the scheme of the statute. The assessing officer has to first apply his mind to the response submitted by the petitioner and only when he contemplates passing any adverse order, a notice of personal hearing is to be given.

8. In this regard, reliance has been placed on the order/judgment of the learned co-ordinate Bench passed in the case of CWJC No. 14239 of 2024 (M/S. Agarwal Tube Company vs. UOI and Others) and in the case of CWJC No. 4180 of 2024 (M/s Barhonia Engicon Private Limited vs. State of Bihar and others).

9. Having heard the learned counsel for the parties and on going through the section 75(4) of the CGST/BGST Act,



2017, we agree with the submission of the learned counsel for the petitioner. At first instance, the assessing officer/proper officer had to give a 30 days time to the assessee to file a response and after filing of the response in case of either of the two conditions mentioned in sub-section (4) of section 75 of the CGST/BGST Act, 2017, an opportunity of personal hearing is to be given to the petitioner. The assessing officer/proper officer in this case has not given any opportunity of personal hearing to the petitioner after filing of the response, hence, we set aside the impugned order.

10. The petitioner may appear through his authorized representative within three weeks from today before proper officer. The proper officer shall hear the representative of the petitioner or fix a date of hearing. Thereafter, an appropriate order shall be passed. The entire exercise must be completed within a period of three months from the date of receipt/production of a copy of this order.

11. This writ petition stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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