IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15601 of 2024

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Binay Rice Mill Trade Name- Sharda Ram Industries, GSTIN No.-10EXVPS9590B1ZX, a proprietary concern having its Office at Barahat, Banka, Bhagalpur-813103, Bihar through its Proprietor Binay Kumar Singh (Male, aged about 46 years) Son of Shri. Ramadhin Prasad Singh resident of Village Hijarar, Barahat, Banka, Bihar-803103.

... ... Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax, Bihar having its Office at Vikas Bhawan Bailey Road, Patna-800001.
2. Addl. Commissioner of State Tax (Appeal), Bhagalpur Division, Bhagalpur, Bihar.
3. Joint Commissioner of State Tax, Bhagalpur Circle-1, Bhagalpur, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.D.V.Pathy, Sr. Advocate Mr. Sadashiv Tiwari, Advocate Ms. Prachi Pallavi, Advocate Mr. Hiresh Karan, Advocate
For the State	:	Mr. Vivek Prasad GP-7 Mr. Sanjay Kumar AC to GP-7 Ms. Roona Ac to GP-7

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

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

Date : 03-07-2025

In the instant petition, petitioner has prayed for the following relief(s):-

> "(i) the order dated the 21.05.2024 (as contained in Annexure -P 13) passed by the respondent no.2 dismissing the appeal without consideration of Foreign Trade Policy, Export Promotion Capital Goods (EPCG), Scheme and the statutory provisions contained in Section 54 (1) of the Central/Bihar Goods and Services Tax Act, 2017 (hereinafter called the Act) read with CGST Rules,

2017(hereinafter called the Rules) being contrary to the policy of the Government of India to promote export and also the statutory provisions contained in the Act, the Rules made thereunder and also the circulars issued by the Central Board of Indirect Taxes, New Delhi being wholly illegal and without jurisdiction be set aside and quashed.

(ii) the order dated 27.07.2023 (as contained in Annexure -P 11 series) passed by the respondent no.3 rejecting the application of refund only on the ground of the submission not being in accordance with the show cause notice without passing a speaking order contrary to the policy of the Government of India to promote export and also the statutory provisions contained in the Act, the Rules made thereunder and also the circulars issued by the Central Board of Indirect Taxes, New Delhi and importantly, the settled principles of natural justice being wholly illegal and without jurisdiction be set aside and quashed.

(iii) the respondent no.3 be directed to grant refund of tax paid on procurement of capital goods in accordance with the Export Promotion Capital Goods (EPCG) Scheme read with the relevant Rules made thereunder with statutory interest there on in accordance with law.

(iv) for granting any other relief (s) to which the petitioner is otherwise found entitled to."

2. Petitioner Sharda Ram Industries/Proprietor Binay Kumar Singh is into business of certain machineries. He is having importer/exporter code which has been extended to him by the competent authority on 04.08.2022 followed by licence/authorization/SCRIP on 21.10.2022. He being the licenced importer for the purpose of purchasing machineries, he had transacted with reference to invoice on 01.09.2022 and on different dates. The petitioner had submitted application for

refund of tax paid on capital goods on 08.05.2023. the respondent authorities are of the view that petitioner is not entitled for refund of tax paid on capital goods, resultantly notice has been issued on 18.06.2023 followed by brief reasons. The petitioner had submitted explanation/reply to the notice dated 18.06.2023 on 28.06.2023.

3. Perusal of the reply to the notice, it is evident that he has quoted number of circulars insofar as claiming refund of tax paid on capital goods. However, the order dated 25.07.2023 to the effect that the petitioner is not entitled for refund of tax paid on capital goods has been passed without their being consideration of petitioner's reply, in particularly, various provisions including number of circulars. Therefore, p*rima facie* adjudicating authority order dated 27.07.2023 is not a reasoned and speaking order. Further, petitioner had preferred appeal before the appellate authority on 08.05.2023 and it was rejected on 21.05.2024. Having further appeal before the GST Tribunal and the fact that the Tribunal is not constituted, resultantly, the petitioner has filed the present writ petition.

4. Learned Senior counsel for the petitioner submitted that a reasoned and speaking order has not been passed by the adjudicating authority vide his order dated 27.07.2023, and he is

not in a position to submit effective appeal.

5. Be that as it may, he had preferred appeal before the appellate authority on 08.05.2023 and it was rejected on 21.05.2024. It is further submitted that there is no consideration particularly in respect of reply to the show cause notice dated 28.06.2023. It is further submitted that the appellate authority has made certain observation in favour of the petitioner, however, it is in partial form, therefore, the petitioner is before this Court.

6. Per contra, learned counsel for the respondents is not in a position to apprise this Court whether the order of the adjudicating authority dated 27.07.2023 is in consonance with the show cause notice dated 16.06.2023 read with the reasons assigned followed by reply, he could not apprise that there is consideration of whatever the contentions raised by the petitioner in his reply dated 28.06.2023. However, he wants to sustain the action of the adjudicating authority order in the guise of decision of the appellate authority.

7. Heard learned counsel for the respective parties. Facts are not disputed. Core issue involved in the present *lis* is whether the adjudicating authority who is exercising quasi judicial function under the CGST Act is required to take note of

the principle laid down by the Hon'ble Supreme Court in the case of **Oryx Fisheries Private Ltd. vs. Union of India & Ors.** reported in **(2010) 13 SCC 427.**. Paragraph no. 40 reads as under:-

> **"40.** In *Kranti Associates* [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below : (SCC pp. 510-12)
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> "(*a*) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
>
> (*b*) A quasi-judicial authority must record reasons in support of its conclusions.
>
> (*c*) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
>
> (*d*) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
>
> (*e*) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.
>
> (*f*) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
>
> (*g*) Reasons facilitate the process of judicial review by superior courts.
>
> (*h*) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(*i*) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(*j*) Insistence on reason is a requirement for both judicial accountability and transparency.

(*k*) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(*l*) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(*m*) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*(1987) 100 Harv. L. Rev. 731-37.)

(*n*) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of *Strasbourg Jurisprudence*. See *Ruiz Torija* v. *Spain* [(1994) 19 EHRR 553] , EHRR at p. 562, para 29 and *Anya* v.*University of Oxford* [2001 EWCA Civ 405 : 2001 ICR 847 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(*o*) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'."

8. Admittedly, in the present case, adjudicating authority order dated 27.07.2023 is bereft of consideration of the petitioner's reply dated 28.06.2023. Rightly or wrongly petitioner has quoted certain circulars, the same have not been analyzed to the extent whether those circulars and material information is applicable to the petitioner's case or not. In other words, reasons should have been assigned by the adjudicating authority to the extent that those circulars are not applicable to the case or not? In the absence, of these material information adjudicating authority order is liable to be set aside. No doubt, the appellate authority has considered petitioner's appeal and made certain observation in favour of petitioner. Be that as it may, the petitioner is helpless in not submitting effective Appeal. In other words, there is a violation of the principles of natural justice. Quasi judicial authorities are bound to pass reasoned and speaking order, for the reason that such of those orders are amenable to judicial review.

9. Taking note of these facts and circumstances the petitioner has made out a case so as to interfere with the order of the adjudicating authority dated 27.07.2023 and appellate authority order dated 21.05.2024, and they are set aside. Matter is remanded to the adjudicating authority to decide the matter

afresh strictly after taking due note of each of the contention and supporting documents in the reply dated 28.06.2023, while keeping in mind the observation of the Hon'ble Supreme Court cited (supra) and proceed to pass a reasoned and speaking order and communicate the same to the petitioner within a period of four months from the date of receipt/production of a copy of this order. The petitioner is at liberty to file additional reply, if any, within a period of three weeks from today before the adjudicating authority.

10. With the above observation, the writ petition stands allowed in part.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2025
Transmission Date	NA