IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4914 of 2026

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M/s Umagaurav Private Limited, a private limited company, having its registered principal place of business under GST in Bihar at Vivek Vihar Colony, Kusumpur, Gola Road, Danapur Patna, P.O- Danapur and P.S- Rupaspur, District Patna, Bihar, 801503, through its Director cum authorised signatory namely Prabhat Gaurav, S/o Rajdeo Prasad, residing at House at end of Indrapuri Path, Saristabad, Kacchi Talab, Gardanibagh, Phulwari, P.O- G.P.O and P.S- Gardanibagh, District- Patna, Bihar- 800001.

... ... Petitioner

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Commercial Tax Department, Government of Bihar, Kar Bhawan, Veerchand Patel Marg, Patna-800001, Bihar.
2. The Assistant Commissioner of State Tax, Danapur Circle-2, Danapur, Patna, Bihar.
3. The Deputy Commissioner of State Tax, Danapur Circle-2, Danapur, Patna, Bihar.

... ... Respondents

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Appearance :

For the Petitioner/s : Mr. Anubhav Khowala, Advocate
For the Respondent/s : Mr. Pratik Kumar, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 17-07-2026

Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner in the present writ application is seeking the following reliefs:-

> "(i) For issuance of a writ in the nature of certiorari or any other appropriate writ, order or direction for quashing of the ex-parte summary of Order dated 18/02/2025 along with a summary order in form GST DRC-07 dated 18/02/2025 bearing reference no. ZD100225021938O (Annexure 'P/3

series') uploaded by the respondent no. 2 on the Additional Notices & Orders Tab of the GST Portal of the Petitioner, whereby a total demand of tax of Rs. 8,46,476 /- along with calculated interest of Rs. 5,71,372/- and penalty amounting to Rs. 84,646/- has been created against the petitioner under sub-section 9 of section 73 of the Central Goods and Services Tax Act, 2017 (“CGST, Act 2017” for short) or the Bihar Goods and Services Tax Act, 2017 ("BGST Act, 2017" for short) for the tax period April 2020-March 2021, because the above impugned order has imposed demand of tax, interest and penalty based on assumptions, conjectures and surmises without due application of mind by the Proper Officer, and because the above order is passed without the authority of GST Law and without adhering to the scheme of the GST Act, and because the above order is passed without adhering to the principles of natural justice as the above order along with the related show cause notice and reminders to show cause notices were not effectively communicated to the petitioner and because no proper opportunity of personal hearing was afforded during the adjudication and even before passing the above impugned order which is violative of the provisions of section 75(4) of the CGST/BGST Act, 2017 and because the above order has imposed a Penalty of Rs. 84,646/- which is excess of the penalty amounting to Rs. NIL as demanded in the related Show Cause Notice dated 25/10/2024 and is thus in violation of the provisions of section 75(7) of the CGST/BGST Act, 2017 and because the genuine ITC claimed by the Petitioner cannot be denied for the default of its supplier to file their GSTR 1 returns without any allegation of obtaining fraudulent ITC against the petitioner and because the order is vague, cryptic and does not set out the reasons for determination of demand and no specific allegation has made against the petitioner resulting in creation of demand ;

(ii) For issuance of a writ in the nature of certiorari or any other appropriate writ, order or direction for quashing of the Show Cause Notice (hereinafter referred to as “SCN” for short) dated 25/10/2024 bearing reference no. 2510 along with summary of Notice in form GST DRC-01 bearing reference no. ZD1010240213690 dated 26/10/2024 (Annexure 'P/2 series') uploaded by the respondent no. 2 on the Additional Notices & Orders Tab of the GST Portal of the Petitioner, whereby a total demand of tax of Rs.8,46,476/- along with calculated interest of Rs.5,33,280/- and penalty amounting to NIL/- has been determined against the petitioner under sub-section 1 of section 73 of the CGST/BGST Act, 2017 for the tax period April 2020-March 2021, because it is issued without adhering to the principles of natural justice as there was no effective communication of the impugned notice as it was merely uploaded in the "additional notices and orders" tab of the GST portal and because there was no opportunity of personal hearing granted to the petitioner in the Impugned SCN or the subsequent reminder notices and nor any such opportunity was provided before passing the adverse demand order which is violative of the provisions of section 75(4) of the CGST/BGST Act, 2017 and because the demand has been determined in the impugned SCN without due application of mind by the proper officer, only on the basis of assumptions and surmises and taking adverse view against the petitioner and alleging excess claim of ITC by petitioners for difference in ITC as per GSTR 2A and GSTR 3B without undertaking any action/enquiry against the suppliers of the petitioner;

(iii) For further issuance of a writ or order or direction upon the respondent authorities to drop the impugned proceedings against the petitioner for tax period April 2020-March 2021 and in case any clarification is required by the respondents in relation to the allegations imposed upon the petitioner through the above impugned Show Cause Notice dated

25/10/2024 as confirmed by the above impugned Demand Order dated 18/02/2025, the respondents may further be directed to initiate a fresh proceedings by issuing a Show cause Notice (subject to the limitation for issuance of such notices as envisaged under the CGST/BGST Act, 2017) and after providing reasonable time to file a reply and an effective opportunity of personal hearing to the petitioner to represent their case, may complete the adjudication on merits in accordance with the provisions of the CGST/BGST Act, 2017 and Principles of Natural Justice;

(iv) For further issuance of a writ or order or direction upon the Respondents for quashing the Notice for recovery u/s 79(1)(c) of the CGST/BGST Act, 2017 in form GST DRC-13 dated 16/03/2026 bearing Memo No 417 issued by Respondent No. 3 whereby a Lien has been marked against the Bank Accounts of the petitioner maintained with Axis Bank, Boring Road, Branch for recovery of Rs.16,11,951/- towards outstanding amount of tax, interest and penalty for FY 2019-20 and FY 2020-21 and granting stay of execution and operation of the impugned order dated 18/02/2025 along with form GST DRC-07 dated 18/02/2025 passed by the respondent no. 2 during the pendency of this writ application.

(v) For further issuance of a writ or order or direction to the Respondents and any other authority executing any of the directions issued by the said respondents, to refund to the Petitioner the total amount recovered by the Respondent Department towards the demand of tax, interest and penalty created by the Demand Order dated 18/02/2025 read with the summary order in form GST DRC-07 dated 18/02/2025 for FY 2020-21 after the impugned order dated 18/02/2025 is quashed for the grounds pleaded in this writ petition by the Petitioner.

(vi) For further issuance of any other appropriate writ, order or direction, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

Brief facts of the Case

3. It is the case of the petitioner that the petitioner is a private limited company, incorporated under the Companies Act, 2013. The petitioner is primarily engaged in the business of providing construction services as a works contractor. The petitioner is duly registered under the Goods and Services Act (in short 'GST Act') with the respondent authorities in the State of Bihar under GSTIN 1088CCU2229A1Z8. The petitioner has duly filed GST returns and deposited the admitted tax for the Financial Year 2020-2021. The petitioner maintains bank account numbers 922020058610511 and 20150206476 with Axis Bank, Boring Road, Patna. On 16.12.2025, the petitioner came to know that debit transactions had been put on hold by the GST Department and transactions were being declined. The petitioner approached the respondent no.2 where he was informed that his account has been attached for recovery of outstanding GST demand for Financial Year 2020-21. As the petitioner had no prior information regarding any such demand, on request, the authorities provided a copy of the notice under Section 79(1)(c) of the Central Goods and Services Act/Bihar Goods and Services Tax, (in short 'CGST/BGST') Act, 2017 in Form GST DRC-13 dated 26.11.2025 bearing Memo No. 222 and the petitioner was informed that all these notices and orders are uploaded on the GST portal of the petitioner which can be assessed by logging into the GST common portal.

4. As per GST DRC-13 Notice, a sum of Rs. 22,05,624/- on account of tax interest and penalty was outstanding for proceeding under GST for the Financial Year 2019-20 and 2020-21. It is stated that having no option and not agreeing with the impugned demands, the petitioner gave three signed cheques of amounts and dates as per the direction of the respondent authorities and after signing the tax challan for immediate release of the bank account, the respondent no.3 issued a letter in Form DRC-14 dated 17.12.2025 to unblock the account of the petitioner as after recovery of the outstanding demand against the petitioner.

5. It is stated that a notice was issued under the signature of respondent no.3 for recovery from third party under Section 79(1)(C) of the CGST/BGST Act, 2017 in Form GST DRC-13 dated 16.03.2026 in Memo No. 417 for holding of Rs. 16,11,951/- towards outstanding amount of tax interest and penalty for the Financial Year 2020-21.

<u>Submissions on behalf of the Petitioner</u>

6. Learned counsel for the petitioner submits that after making payment of outstanding demand under protest for immediate detachment of the bank account it was found on the GST portal that the SCN, DRC-01, reminder notices and demand order (Annexure 'P/2' series) were uploaded only under the "Additional Notices and Orders" tab instead of the "Notices and Orders" tab. It is stated that the "Additional Notices and Orders" tab was easily accessible on the portal and notifications unlike the notices that are uploaded in "Notices and Orders" tab of the portal.

7. Learned counsel has drawn the attention of this Court towards the show cause notice by which the petitioner was directed to submit its reply on or before 25.11.2024, however, no date for personal hearing was fixed as the specific column for personal hearing was marked "NA", therefore, no opportunity of personal hearing was afforded to the petitioner in violation of Section 75(4) of the CGST/BGST Act, 2017.

8. Learned counsel submits that an *ex-parte* demand order under Section 73(9) of the CGST/BGST Act, 2016 dated 18.02.2025 along with summary order in Form GST DRC-07 dated 18.02.2025 for the Financial Year 2020-21 (Annexure 'P/3' series) issued under the signature of respondent no.3 was found uploaded on the "Additional Notices and Orders" tab of GST Portal. Learned counsel submits that no notices and orders annexed at Annexure 'P/3' series were ever served upon him by any of the modes such as speed post on the GST registered address, on registered e-mail id and physical communication.

9. Learned counsel submits that merely uploading of the notice on the GST Portal is not sufficient/effective service of notice and the order in relation to the proceeding initiated against the petitioner comes under the violation principle of natural justice. Learned counsel has placed reliance on the judgment passed by a learned coordinate Bench of this Court in the case of **M/s. Shree Shyam Trading Co. vs. Union of India** (CWJC No. 5661 of 2025) and in the case of **M/s Lord Vishnu Construction Pvt. Ltd. Vs. The Union of India & Ors.** reported in **2025 (2) PLJR 687** passed by this Court and contended that in these cases the Hon'ble Court has been pleased to quash the proceedings under GST initiated by merely uploading the notices under the "Additional Notices and Orders" Tab. In support of his submissions, learned counsel for the petitioner has also placed reliance on various judgments of this Court; **Shree Ram Sales LLP vs. The State of Bihar and Ors. (CWJC No. 2768 of 2025), M/s Binod Traders vs. Union of India (CWJC No. 5495 of 2025), Durga Paper Plate Industries vs. Union of India (CWJC No. 7911 of 2025), Raja babu Kapra Ghar vs. Union of India (CWJC No. 6640 of 2025), M/s Shree Shyam Trading Co. vs. the Union of India & Ors. (CWJC No. 5661 of 2025).**

10. Learned counsel submits that the respondent authorities have failed to ensure that there is actual service of the impugned notice dated 25.10.2024 and the subsequent order dated 18.02.2025 upon the petitioner due to which the petitioner was deprived of any opportunity to file a reply. It is submitted that the petitioner came to know about the proceedings for the Financial Year 2020-21 only upon attachment of its bank account and by that time, the impugned order dated 18.02.2025 had already attained finality due to which the petitioner also lost his right to file an appeal under Section 107 of the CGST/BGST Act, 2017 within the prescribed time limit due to non-communication of the said order.

Submissions on behalf of the Respondents

11. A counter affidavit has been filed on behalf of the respondent. It is submitted that the petitioner got itself registered with Danapur Circle-2 of Commercial Taxes Department. A return for the Assessment Year 2020-21 was filed. The assessing authority found that the petitioner had availed huge input tax credit in excess of the eligibility. The tax liability discharged by the petitioner was lower than that admitted by the GSTR-1. Thus, a notice to show cause was issued on 25.10.2024 to the petitioner through GST portal.

12. It is submitted that when the petitioner did not act on or responded to the show cause notice, two reminders dated 13.11.2024 and 11.02.2025 were also served on the petitioner.

These notices did not yield any result. The adjudication proceeding culminated into a demand vide order dated 18.02.2025.

13. The petitioner did not prefer any statutory appeal against the assessment order. The appeal was required to be filed within a period of three months in terms of Section 107 of the CGST/BGST Act, but the present writ application has been filed after more than a year, leaving aside the remedy of a statutory appeal.

14. It is submitted that the bank account of the petitioner was attached in November, 2025. This fact was known to the petitioner, but even at this stage, instead of filing the appeal, the petitioner chose to approach the Joint Commissioner, State Taxes, Danapur Circle-2, Danapur. Petitioner admitted the demand and furnished an undertaking that the assessed demand would be cleared within three months. He requested the respondent authorities to remove the hold on its accounts so that the petitioner may conduct its business smoothly. Petitioner furnished three post-dated cheques covering the total amount of Rs. 21,97,654/-. One of the post-dated cheques amounting to Rs. 8,46,476/- was allowed to be encashed, but when the other cheques were presented before the bank, those cheques stood dishonoured due to insufficient fund.

Respondents have enclosed Annexure 'A' and Annexure 'B' respectively to the counter affidavit to support the aforementioned submissions. Till this time, the petitioner did not raise any issue.

15. Learned counsel for the State submits that the statement of the petitioner in paragraph '7' of the writ application is only an afterthought story told by the petitioner and these statements have been manufactured to give an impression that the petitioner had no knowledge of issuance of show cause notice and demand notice arising out of the impugned adjudication order.

16. Learned counsel submits that the conduct of the petitioner may be seen from the fact that the bank account of the petitioner was attached in November, 2025, whereafter on 15.12.2025, the petitioner furnished the undertaking and three post-dated cheques to the department, he cited his poor financial condition and by offering three post-dated cheques, he took benefit from the department to allow him to run the bank accounts for smooth conduct of business. The department allowed the petitioner to operate the accounts by withdrawing the hold and thereby the petitioner took advantage of the undertaking and the post-dated cheques given by him to the department. In fact, one of the cheques have been allowed to be encashed, but subsequently, under legal advice, the petitioner has chosen to file this writ application.

17. It is submitted that in the facts and circumstances of the present case, the petitioner has made itself disentitled for the reliefs prayed in the writ application. Reliance has also been placed on the judgments of the Hon'ble Madhya Pradesh High Court in the case of **M/s Yash Krishi Seva Kendra vs. State of Madhya Pradesh and Ors. (Writ Petition No. 13023 of 2022)** and on the judgment of the Hon'ble Andhra Pradesh High Court in the case of **M/s A.R. Steels vs. Deputy Assistant Commissioner STL (W.P. No. 1152 of 2026)** reported in **(2026) 156 GSTR 315**

18. In paragraph '16 (II)' the respondents have described in detail the intricacies of the uploading of the notices and orders under "Additional Notices and Orders" tab of the GST portal. It is submitted that in the case of **Medha Servo Drives Private Limited vs. Union of India (WP(C) No. 41395 of 2025)** reported in **2025 SCC OnLine Ker 16881**, a similar plea was taken on behalf of the assessee, but the Hon'ble Kerala High Court was pleased to dismiss the writ application on the ground that going by the scheme of the Act and the manner in which the service of notice is contemplated under Section 169 and there being no dispute with regard to the fact that the order was uploaded on the web portal, no justifiable reasons may be found to entertain the writ petition.

19. It is submitted that in paragraph ‘16(II)’, the respondents have categorically stated that when a notice/order is uploaded on GST portal, the system automatically sends a message to this effect to the taxpayer through SMS as well as on its registered email address. Thus, it is submitted that the grievance of the petitioner is baseless as it cannot plead ignorance of notices served on it.

20. It is also pointed out that while answering sub-paragraph (I) and (II) of paragraph ‘16’ of the counter affidavit, the petitioner could not muster enough courage to make a positive statement that no SMS or email was received by the petitioner. Instead of saying so in simple words, the petitioner simply denied the assertion of the respondent stating that no proof of any such alert has been placed on record. It is submitted that to say that no such alert has been placed on record is one thing, but to say that no such alert/email was received by the petitioner would have been a different thing. The distinction is very clear. The petitioner claims that he had deputed a professional to check his emails but neither the name of that professional has been disclosed nor any declaration/certificate of the professional, if any, has been brought on record.

Consideration

21. We have heard learned counsel for the petitioner and learned counsel for the State at length. The petitioner has challenged the show cause notice dated 25.10.2024 (Annexure ‘P/2’ series) and the *ex-parte* summary of order dated 18.02.2025 (Annexure ‘P/3’ series). A perusal of Annexure ‘P/2’ would show that as per return filed by taxpayer and data available on GST portal for the Financial Year 2020-21, some discrepancies were found. Relevant part of Annexure 'P/2' are as under:-

> “1. As per returns for the said period, following discrepancies has been found

Tax liability as per GSTR01	Tax paid as per GSTR 3B	Less tax paid
1654984	1592458	62526

> 2. As per returns GSTR-3B for the period mentioned above, it is clear that you have claimed excess ITC in comparison to ITC accrued as per GSTR-2A.

FY 2020-21	**ITC claimed in GSTR 3B**	**ITC accrued as per GSTR 2A**	**Excess ITC claim in GSTR-3B**
	2629268	184419	783949

22. In view of the aforementioned discrepancies, the department decided to issue a 'SCN' under Section 73(1) of the

BGST Act, 2017, read with Rule 142(1) "Ground:- Excess claim of ITC and suppression of turnover." The taxes and other dues were calculated as under:-

" Tax and other dues

Act	Tax	Interest	Total
CGST	423238	266640	689878
SGST	423238	266640	689878
Total	**846476**	**533280**	**1379756**

"

23. The SCN (Annexure 'P/2') further contained stipulation that interest as per Section 50(1) of the BGST Act is applicable on the above difference amount. The petitioner was advised to pay the amount of taxes ascertained along with amount of applicable interest or submit his explanation by 24.11.2024, failing which DRC-07 will be issued under Section 73(9). Thereafter, reminders dated 13.11.2024 and 11.02.2025 were issued.

24. The petitioner did not submit any response. Ultimately, the summary of order under Section 73(9) of the BGST Act, 2017 (Annexure 'P/3' series) was issued. The order contained in DRC-07 is being reproduced hereunder for a ready reference:-

"**Office of the Joint Commissioner of State Tax Danapur Circle-2, Danapur**
Demand Order under Section 73 (9) of Central / Bihar GST Act, 2017

GSTIN :- 10AACCU2229A1Z8
Legal Name :- UMAGAURAV PRIVATE LIMITED
Trade Name :- UMAGAURAV PRIVATE LIMITED
Tax Period :- APRIL 20 & MARCH 21.
F-Y :- 2020-2021

Act-BGST 2017

Summary of Order

आपके द्वारा आलोच्य अवधि हेतु GSTR–1 एवं GSTR-3B दाखिल कर दी गयी है। करदाता द्वारा दाखिल की गयी विवरणियों की जाँच की गयी। जाँचोपरान्त निम्नलिखित अनियमितता पायी गयी :–
आपके द्वारा GSTR-3B में दावा किए गए ITC तथा GSTR-2A में Auto Populated ITC की स्थिति निम्नवत् पायी गयी :–

Particulars	CGST/SGST
ITC Availed in GSTR-3B	2629268
ITC Auto populated in GSTR-2A	184419
Differences	783949
Particulars	CGST/SGST
Tax Liability as per GSTR 1	1654984
Tax Paid as per GSTR 3B	1592458
Differences	62526

उक्त से स्पष्ट होता है कि आपके द्वारा CGST/SGST के अंतर्गत रू० 846476 का कर भुगतान नहीं किया गया है। तथा CGST/SGST के अंतर्गत रू० 243683.00 Excess ITC का दावा किया गया है। Short tax Payment तथा Excess ITC Claim Output Tax Liability में जोड़ते हुए इस पर केन्द्रीय / बिहार माल एवं सेवा कर अधिनियम 2017 की धारा 50 (1) के अंतर्गत दिये गये प्रावधानों के आलोक में 1.5% प्रतिमाह की दर से CGST/SGST के अंतर्गत ब्याज रू० 533280 संगणित की जाती है।
इस प्रकार उपर्युक्त तथ्यों के आलोक में केन्द्रीय / बिहार माल एवं सेवा कर अधिनियम 2017 की धारा 73(1) के अंतर्गत दिये गये प्रावधानों के आलोक में कर एवं शास्ति तथा धारा 50(1) के अंतर्गत संगणित ब्याज का ब्यौरा निम्नवत् है

ACT	Tax	Interest	Total
CGST	423238	266640	689878
SGST	423238	266640	689878
Total	846476	533280	1379756

उपरोक्त राशि रू0 **1379756.00** के लिए विहित प्रपत्र DRC - 01 (Ref- No-ZD1010240213690- 26/10/2024) में सूचना निर्गत किया गया। जवाब की तिथि अथवा साक्ष्य प्रस्तुत करने और कर, ब्याज एवं अद्यतन शास्ति की राशि का भुगतान करने के लिए करदाता को दिनांक 25.11.2024 तक समय दिया गया। निर्गत सूचना DRC -01 एवं 01 स्मार के आलोक में करदाता के द्वारा कार्रवाई शुन्य है। जिसका विवरण निम्नवत् है।

Reminder	Ref No.	Issue Date
1	ZD1011240077060	29/11/2024
2	ZD1002250125931	11/02/2025

BGST Act, 169(1)(c) के आलोक में अंतिम स्मार जो कि निबंधित mail पर भेजने के उपरान्त भी निर्गत सूचना DRC-01 के आलोक में करदाता द्वारा आदिनांक किसी भी माध्यम से अपना पक्ष प्रस्तुत नहीं किया गया और ना ही अधिरोपित राशि का भुगतान किया गया। करदाता को विधिसम्मत् अपना पक्ष प्रस्तुत करने के लिए पर्याप्त अवसर दिया गया। परन्तु इनके द्वारा SCN का जवाब नहीं दिया गया।

अतः BGST ACT 2017 की धारा 73 के आलोक में अग्रेतर कार्रवाई केन्द्रीय / बिहार माल सेवा कर अधिनियम 2017 की धारा 73 (9) के अंतर्गत एक पक्षिय कार्रवाई करते हुए कर, ब्याज एवं शास्ति अधिरोपित करने का निर्णय लिया जाता है।

साथ ही अधिनियम की धारा 50 के तहत संगणित कर राशि पर / 18% वार्षिक की दर से ब्याज अधिरोपित करने निर्णय लिया जाता है।

पुनः अधिनियम की धारा 73 (9) के तहत कर राशि का 10% या रू0 10000.00 जो भी अधिक हो, शास्ति अधिरोपित करने का निर्णय लिया जाता है।

करदाता के द्वारा आलोच्य अवधि के लिए धारा 73 (9) के तहत ब्याज एवं शास्ति राशि, गणना निम्नवत है।

Tax Period	Act	Tax(Rs.)	Interest (Rs.)	Penalty (Rs.)	Total (Rs.)
2020-21	SGST	423238.00	285686.00	42323.00	751247.00
	CGST	423238.00	285686.00	42323.00	751247.00
	Total-	846476.00	571372.00	84646.00	1502494.00

उक्त राशि के लिए प्रपत्र DRC 07 निर्गत करें ।

ह0/–
राज्य कर सहायक आयुक्त
दानापुर अंचल–2. दानापुर"

25. The above-mentioned summary of orders has been challenged on the ground of it's being an *ex-parte* order and non-compliance with the requirement of Section 169 of the BGST Act, 2017. It is the case of the petitioner that the SCN was uploaded on the GST portal under the heading "Additional Notices and Orders" which is not a proper compliance.

26. On perusal of the writ application, this Court finds that the impugned SCN and the summary of orders have been challenged on the premise of non-compliance with Section 169 of the BGST Act. Petitioner has chosen not to speak anything on merit on the allegations that the petitioner had availed huge amount of excess Input Tax Credit (ITC). The SCN in GST DRC-01 clearly states the ITC approved as per GSTR - 2A was Rs. 1,84,419/- whereas the

ITC claimed in GSTR-3B was Rs.26,29,268/-. It would further appear that in the summary of order (Annexure 'P/3' series) there is a clear stipulation that in the light of Section 169(1) (c) of the BGST Act, the last reminder was sent on the registered mail, but even thereafter, the assessee had not submitted his response to the SCN contained in DRC-01.

27. The writ application is completely silent on the point of actual accrual of ITC in the account of the petitioner as per GSTR-2A. The writ application is also silent on the ground stated in the SCN GST DRC-01, which talks of excess claim of ITC and suppression of turnover.

28. Despite clear assertion in the summary of order that the last notice was sent on the registered email, the petitioner has not made specific and categorical statement that no email was received by the petitioner on the registered email ID. There is no certificate of any professional on this factual assertion. The only bald statement of the petitioner is that he has been deprived of an opportunity of effective personal hearing and that there is no proper compliance with Section 169 of the BGST Act. Since the petitioner is seeking quashing of the SCN DRC-01 and the summary of order in GST DRC-07, it was incumbent upon the petitioner to state on fact the actual accrual of ITC present in GSTR-2A. The allegations against the petitioner are clearly stated in the SCN. In fact, a perusal of the writ application would show that the petitioner claims that the respondent no. 2 has failed to bring on record or even allege as how it has been arrived that the ITC claimed by the petitioner is excess. This kind of assertion would not inspire confidence. The submission of the petitioner that no clarity has been given in order as to whether the suppliers of the petitioner have not filed their GSTR-1 or have not deposited the tax due on the supplies made to the petitioner or whether they have merely failed to upload the invoices issued to the petitioner amounts to putting the burden on the department without making a positive statement with regard to the actual accrual of ITC present in GSTR-2A.

29. Having taken note of this aspect of the matter, this Court gave an option to learned counsel for the petitioner that he may go in appeal under Section 107 of the BGST Act after withdrawing this writ petition. Learned counsel for the petitioner has, however, chosen to continue with this writ petition.

30. To this Court, it appears that only ornamental statements have been made by the petitioner. In this regard, Section 73(1) of the BGST Act, 2017 and Rule 142(1) of the CGST Rules, 2017 are being reproduced hereunder for a ready reference:-

<u>Section 73(1) of the BGST Act</u>

"[1]73. Determination of tax [2][, pertaining to the period upto Financial Year 2023-24] not paid or short paid or erroneously refunded or input tax

1 Enforced w.e.f. 1-7-2017 vide Noti No. 9/2017-Central Tax, dt. 28-6-2017.
2 Inserted by Finance (No.2) Act, 2024 (15 of 2024), dt. 16-8-2024, w.e.f. 1-11-2024 vide SO 4253(E), dt. 27-9-2024.

credit wrongly availed or utilised for any reason other than fraud or any willful-misstatement or suppression of facts.—

(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

Rule 142(1) of the CG & ST Rules, 2017

[2]**[142. Notice and order for demand of amounts payable under the Act.-**(1) The proper officer shall serve, along with the –

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2. Substituted vide Noti. No. 16/2019-Central Tax, dt. 29-3-2019, w.e.f.1-4-2019. Prior to substitution, rule 142 read as under:-

"**142. Notice and order for demand of amounts payable under the Act**.-

(1) The proper officer shall serve, along with the

(a) notice under sub-section (1) of section 73 or sub-section (1) of section 74 or sub-section (2) of section 76, a summary thereof electronically in **FORM GST DRC-01,**

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02,

specifying therein the details of the amount payable.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act he shall inform the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in **FORM GST DRC–04**.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), or where the person concerned makes payment of the amount referred to in sub-section (1) of section 129 within fourteen days of detention or seizure of the goods and conveyance, he shall intimate the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 or the reply to any notice issued under any section whose summary has been uploaded electronically in FORM GST DRC-01 under sub-rule (1) shall be furnished in **FORM GST DRC-06**.

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in **FORM GST DRC-08**.".

> (a) notice issued under section 52 or section 73 or section 74 [3][or section 74A] or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC-01"

31. The form GST DRC-01 contains the facts and figures which the petitioner is unable to deny.

32. The petitioner is on record saying that his bank account was attached in November, 2025. The statement of the petitioner that the petitioner got information about the bank attachment much later on **15.12.2025** when he visited the jurisdictional office of the respondents and the copies of the notices and the orders were obtained at an even later date upon perusal of the portal subsequent to the signing of the alleged undertaking letter dated 15.12.2025 is nothing but an afterthought. This Court would reproduce the undertaking of the petitioner - Annexure 'A' to the counter affidavit hereunder:-

> "सेवा में,
> राज्य कर संयुक्त आयुक्त
> दानापुर अंचल–2. दानापुर।
> विषय :– कर ब्याज एंव शास्ति भूगतान हेतु Bank Cheque समर्पित करने के संबंध में।
> महाशय,
> निवेदनपूर्वक कहना है कि आपके कार्यालय द्वारा कर, ब्याज एवं शास्ति बकाया होने के कारण मेरे खाता संख्या को Attach किया गया है।
> मैं बकाये राशि के भुगतान हेतू प्रतिबद्ध हूँ। मेरी आर्थिक स्थिति खराब होने एवं व्यवसाय सुगमता पूर्वक चल सके इसके लिए मेरे Bank A/C को Deattached किया जाना आवश्यक है। मेरे द्वारा बकाये राशि रू0 2197654.00 का भुगतान 03 माह के अंदर कर दिया जाएगा। इसके लिए मैं भवदीय के कार्यालय में 03 Post dated Cheque संख्या 396010, 396011, 396012 जमा कर रहा हूँ।

3. Inserted vide Noti. No. 20/2024-Central Tax, dt. 8-10-2024, w.e.f. 1-11-2024.

अतः भवदीय से अनुरोध है कि मेरे खाता संख्या 922020058610511 एवं 20150206476 संचालन पर लगे रोक के बिन्दु पर सहानुभूति पूर्वक विचार करते हुए इसे हटाने की कृपा की जाय।

ह0/–
विश्वासभाजन"

33. The fact that after execution of the undertaking (Annexure 'A'), the petitioner never represented to the department that the undertaking was wrongly given by him under duress, rather he allowed one of the cheques to be cleared by the bank and took advantage of the removal of the withholdment of the account by the department. The conduct of the petitioner is such that it would stop the petitioner from taking a plea in the writ petition for the first time that the petitioner had given the undertaking (Annexure 'A') under protest or under duress. This Court finds nothing on the record to take a view that cheques were furnished in protest or under compulsion of the attachment. The statements in this regard made in the writ petition has been made with an afterthought at much belated stage.

34. This writ application has been filed after three months from the date of execution of the undertaking and submission of the three post-dated cheques. There is nothing on the record to take a view that for more than three months after execution of the undertaking and submission of the post-dated cheques, the petitioner could not have raised any protest or preferred an appeal against the impugned SCN (Annexure 'P/1') and the impugned summary of order (Annexure 'P/2'). This is not a *bona fide* writ application. The writ remedy is meant for those who come clean before this Court. In the facts of this case, the plenary and discretionary jurisdiction of issuance of extra-ordinary writ is not fit to be exercised. The conduct of the petitioner is such that it requires dismissal of the writ application with cost, which we assess at Rs. 25,000/-.

35. The writ application is dismissed. Cost be paid to the Patna High Court Legal Services Committee within a period of one month from today and receipt thereof be filed in the Registry.

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

Rishi/-

AFR/NAFR	
CAV DATE	08.07.2026
Uploading Date	17.07.2026
Transmission Date	