IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16335 of 2025

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M/S Prem Highway Services having its Registered office at -1,1,1, Ara Sasaram Road, NH Anaith, Ara, Bhojpur, Bihar-802301through its Sole Proprietor Mrs. Anita Saran, aged about 62 Years, W/o- Anant Prakash Saran, resident of Jail Road, Mahajan toli no.1, Arah, District- Bhojpur, Bihar-802301.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, having its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi-110001.
2. The Chief Commissioner, CGST and CX Office at C.R Building, 1st Floor, Bir Chand Patel Path, Patna, Bihar.
3. The State of Bihar through the Commissioner, BGST, New Secretariat, Patna.
4. Joint Commissioner of State Tax Sahabad Circle, Ara, District- Bhojpur, Bihar.
5. Deputy Commissioner of State Tax Sahabad Circle, Ara
6. Assistant Commissioner of State Tax Sahabad Circle, Ara, District- Bhojpur, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Adv.
		Mr. Abhishek Kumar, Adv.
		Mr. Ankesh Bibhu, Adv.
For the State	:	Mr. Vivek Prasad, GP-7
For the Union of India	:	Mr. Amit Pandey, Sr. S.C., CGST & CX

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
and
HONOURABLE MR. JUSTICE VIKASH KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA)

3 12-08-2026 1. The petitioner has filed the present writ application for quashing the order of the Adjudicating Authority dated 29.04.2024, whereby a tax liability of Rs. 1,25,71,936/- has been imposed and demand notice has been served upon the petitioner.

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2. Learned counsel for the petitioner submits that the petitioner is a dealer of petroleum products and deals in sale of Motor spirit and High-speed diesel, which are non-GST items and are taxable under Section 9(2) of the CGST/BGST Act, subject to issuance of notification. The notification has not yet been issued by the Government and these items are being taxed under the old regime of VAT Act.

3. Learned counsel further submits that the petitioner had filed his return for the year 2018-19. Further, the Assessing Authority while passing the order, has gone beyond jurisdiction and assessed the tax on the invoices of Motor spirit and High-speed diesel. A tax liability of Rs. 1,25,71,936/- has been imposed on the petitioner by the Adjudicating Authority.

4. On the other hand, learned counsel for the State argued that the petitioner neither responded to the show cause notice issued by the Assessing Authority nor produced any document to show that the products' invoices pertain to the non-GST items. It has further been submitted that from the impugned order, it would be evident that tax has been imposed upon some other GST items also.

5. We have heard learned counsel for the parties and have gone through the materials on record. It appears that the

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petitioner is a dealer of petroleum products. In support of his claim, the petitioner has produced the Registration Certificate and tax invoices before this Court by way of the present writ application. Admittedly, the petroleum products, i.e. Motor spirit and High-speed diesel are non-GST items upon which it appears that the Adjudicating Authority has imposed tax liability on the petitioner. Imposing tax liability on non-GST items travels to the root of the matter.

6. As such, even if there is a delay in approaching this Court, we are entertaining the present writ application and considering the above discussion and the prima facie finding of this Court that the Adjudicating Authority lacks jurisdiction in imposing GST upon the non-GST items, we are inclined to interfere with the order of assessment.

7. Accordingly, the order of assessment order dated 29.04.2024 is set aside. The matter is remanded back to the Adjudicating Authority for fresh determination of tax upon the petitioner entity.

8. The petitioner is directed to appear before the Adjudicating Authority within 20 days along with his entire documents and reply to the show cause notice in support of which he is placing his claim and the same shall be considered

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by the Adjudicating Authority in accordance with law after giving personal hearing to the petitioner.

9. The Adjudicating Authority is directed to fix the date of hearing with advance proper intimation to the petitioner and shall pass a fresh assessment order in accordance with law within a period of two months from the date of appearance of the petitioner.

10. With the aforesaid direction, this writ application is disposed.

(Anil Kumar Sinha, J)

(Vikash Kumar, J)

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