

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18672 of 2024

M/s ARCON PROJECT PVT LTD through its Proprietor Arjun Singh male, aged about 47 years, son of Sakal dev Singh, resident of SA Shakti dham Apartment Baba Lodge ke pass, S.K.Nagar Phlwari, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Taxes, New Secretariat, Patna.
2. The Joint Commissioner, State Taxes, KADAM Kuan Circle, Patna Bihar.
3. The Additional Commissioner (Appeal), State Taxes, Patna East Commisionary, Patna, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Archana Sinha @ Archana Shahi
For the Respondent/s : Mr.Government Pleader (07)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2024

The petitioner is concerned with the assessment order passed for the year 2017-18 produced at Annexure-P/1. Specific reference is made to the detailed order passed by the Assessing Officer on 27.11.2023 produced as Annexure-P/1. This was challenged in appeal but the appeal stood rejected by Annexure-P/3 dated 10.07.2024.

2. On a perusal of the assessment order, it is seen that the petitioner's claim for input tax has been found to be not as per his GSTR-3B returns; on a verification of the GSTR-2A



returns of the supplier. The tax was deficient by Rs.34,69,280/-.

3. The petitioner's contention is that it occurred only by a reason of the GSTR-2A of the supplier having not reflected the entire tax payment by the petitioner, to the supplier, which the petitioner is entitled to claim as input tax credit.

4. The petitioner relies on Circular F No. CBIC-20001/2/2022-GST dated 27.12.2022 which has been produced as Annexure-P/4 to the writ petition. The petitioner's contention based on the Circular is that for the financial year 2017-18 and 2018-19 considering the fact that the GST Acts were in its initial stage, the Central Board of Indirect Taxes and Customs had made a provision for the delay in the supplier uploading his invoices in his portal.

5. The specific reference made is to Clause 3(a) which is extracted hereunder:

S.No.	Scenario	Clarification
a.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.

6. In such cases, the Board has prescribed for



proceeding under Para 4. Hence, necessarily the Assessing Officer will have to follow the said procedure.

7. It is submitted that the supplier has in all probability now uploaded the Form GSTR-3B which should reflect the entire input tax credit claimed by the petitioner, who had received the goods from the supplier.

8. We set aside the assessment order for the purpose of redoing the assessment in accordance with the Circular.

9. In the circumstances, to facilitate the re-consideration, we set aside the appellate order at Annexure-P/3 and the assessment order produced as Annexure-P/1. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

ranjan/-

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

