

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6868 of 2024

Shreeya Construction Private Limited, A Block, First Floor, Balajee Shyam Sundar Complex, Jagdeopath More, Patna- 800014, having GSTIN 10AAHCS2896N1ZX through its Director- Mr. Sanjay Kumar, Son of Kapil Deo Prasad, Male, aged about 59 years, resident of H/O Sri Kapil Deo Prasad Yadav, P.S. Buddha Colony, Chakaram, Opposite H/N B-26 Patna - 800001 (Bihar)

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Revenue, New Delhi
2. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna
3. Assistant Commissioner of State Tax, Patna Central 1- Patna West, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Jha, Advocate
Mr. Sanjeev Kumar, Advocate
Mr. Aman Raja, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-11-2024

The only ground raised challenging the order rejecting the rectification application is that no hearing was afforded. The petitioner filed an application under Section 161 of the BGST Act which was rejected by the impugned order produced as Annexure-P/6. Admittedly there was no hearing afforded before the rectification application was rejected.

2. The learned Government Advocate submits that the



application filed would not come within the ambit of the provision for rectification, especially since there is no arithmetical error or mistake apparent on the face of the record which could be rectified.

3. The third proviso to Section 161 reads as under:

“Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.”

4. Hence even if the Assessing Officer was of the view that the rectification application would not come within the ambit of Section 161, a notice should have been issued and an opportunity for personal hearing afforded to the petitioner. If the petitioner appears, the Assessing Officer should hear the petitioner and pass an order and if no appearance is noted at the date posted, then the Assessing Officer could even proceed *ex parte*.

5. Considering the fact that no such opportunity for personal hearing was granted, we set aside the order passed making it clear that we have not made any observation on the merits of the rectification sought, as coming within the ambit of Section 161.

6. The petitioner shall appear before the Assessing



Officer on 18.12.2024 and the petitioner shall be afforded opportunity of personal hearing. The Assessing Officer shall consider the rectification application.

7. In so far as the limitation issue regarding the original order passed, we have already held in CWJC No.4180 of 2024 (M/s Barhonia Engicon Private Limited vs. The State of Bihar and others) dated 27.11.2024 that the extension of limitation was perfectly valid.

8. The writ petition is partly allowed with the above directions.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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CAV DATE	
Uploading Date	29.11.2024
Transmission Date	

