

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11303 of 2025

M/s. Shyam Electric a Proprietary concern having its place of business at Chandni Chowk Market, Frazer Road, P.S. Kotwali, Town and District Patna through its Proprietor, Om Prakash Lath, aged about 65 years, son of Late Shyam Prasad Lath, Resident of Shyam Bhawan, New Punaichak, Near R D Tower, Bishwaraiya Bhawan, Phulwari, P.S. Sashtri Nagar, District Patna.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Secretary, Ministry of Finance, Government of India, New Delhi.
3. The State of Bihar through the Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna.
4. The Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna.
5. The Additional Commissioner of State Tax, Patna Division, Patna.
6. The Deputy Commissioner of State Tax, Patna West Circle, Patna.
7. The Joint Commissioner, State Tax, Patna West Circle, Patna.
8. The Assistant Commissioner, State Tax, Patna West Circle, Patna.

... .. Respondents

Appearance :

For the Petitioner : Mr. Mohit Agarwal, Advocate
Mr. Rahul Kumar, Advocate
Mr. Vikash Khanna, Advocate
For the CGST : Ms. Shilpi Keshri, Advocate
For the State : Mr. Kumar Vivek, GP-7

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH)

Date : 15-04-2026

Heard the learned counsel for the parties.

2. The present writ petition has been filed seeking
the following reliefs:

“(a) For quashing the ex parte Assessment



Order dated 24.04.2024 passed under Section 73 of the BGST Act, 2017 by the Respondent Deputy Commissioner, State Tax, Patna West Circle, Patna and subsequent demand raised in Form DRC 07 dated 24.04.2024 with respect to Financial Year 2018-19 as the same has been passed without granting any opportunity of hearing as contemplated under Section 75 of the BGST Act, 2017 and also without service of any notice, much less, show cause notice by any mode of service as contemplated under Section 169 of the BGST Act, 2017 and also ignoring the fact that a proceeding with respect to similar Financial Year initiated vide show cause notice dated 12.02.2020 was also pending, the copy of which was also never served to the Petitioner by any mode as contemplated under Section 169 of the BGST Act, 2017;

(b) For holding that passing of the ex parte impugned assessment order dated 24.04.2024 without granting an opportunity of hearing as contemplated under Section 75 of the BGST Act, 2017 is violation of principle of natural justice and also ignoring the fact that one earlier proceeding with respect to similar Financial Year vide show cause notice dated 12.02.2020 was also pending under consideration and, therefore, the impugned ex parte assessment order is liable to be quashed;

(c) For holding that as the Petitioner Firm was not served with the purported show cause notices or the impugned ex parte assessment order by a valid mode of service as contemplated under Section 169 of the BGST Act, 2017, the same amounts to principle of natural justice and the impugned order is liable to be quashed and set aside;

(d) For holding that in the facts of the present case, the impugned assessment order dated 24.04.2024 is an ex parte order as no notices were ever served upon the Petitioner firm in terms of



Section 169 of the BGST Act, 2017 nor the Petitioner was granted an opportunity of hearing in terms of Section 75(4) of the BGST Act, 2017;

(e) For holding that the Respondent Deputy Commissioner of State Tax, Patna West Circle, Patna could not have initiated a fresh proceeding vide show cause notice dated 25.10.2023 as for the similar Financial Year a show cause notice in Form DRC 01 dated 12.02.2020 was already initiated, though the copy of which was also never served upon the Petitioner as the grounds for initiation of proceedings in both the show cause notices wherein mostly similar and identical; and/or for any other relief(s) as Your Lordships may deem fit and proper in the facts of the present case and in the interest of justice.”

3. The brief facts of the case are that a show cause notice dated 25.10.2023 for the tax period: April, 2018 - March, 2019 was issued to the petitioner by the Assistant Commissioner, State Tax, Patna West Circle, Patna, wherein the reply was required to be submitted by the petitioner by 25.11.2023. Thereafter, a reminder dated 05.12.2023 was issued to the petitioner by the Office of the Assistant Commissioner, State Tax, Patna West Circle, Patna fixing the date of personal hearing as 08.12.2023 at 12:35 hours. Again a reminder dated 06.04.2024 was issued to the petitioner by the Office of the Deputy Commissioner, State Tax, Patna West Circle, Patna, fixing the date of hearing as 09.04.2024 at 13:01 hours. The petitioner ultimately submitted response to the show cause



notice on 10.04.2024 in form GST DRC - 06, wherein at serial no. 7 he had opted for personal hearing, however, no personal hearing was granted to the petitioner and instead Office of the Joint Commissioner, State Tax, Patna West Circle, Patna, has passed the impugned order dated 24.04.2024 under the pen and signature of Deputy Commissioner of State Tax, Patna West Circle, Patna, fixing tax liability along with interest and penalty, totaling to a sum of Rs. 26,08,987/-.

4. The learned counsel for the petitioner submits that under Section 75(5) of the Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as “Act, 2017”), the proper officer is required to grant time to the assessee and adjourn the hearing for reasons to be recorded in writing, if sufficient cause is shown by the person chargeable with tax, however no adjournment shall be granted for more than three times to a person during the proceedings. Thus, it is submitted that since only two reminders were issued to the petitioner, whereafter the petitioner had filed his reply to the show cause on 10.04.2024, seeking opportunity of personal hearing, the assessing officer ought to have granted an opportunity to the petitioner to file his reply and advance his arguments personally.

5. Reliance has also been placed on Section 75(4)



of the Act, 2017, which is reproduced hereinbelow:

“An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.”

6. In view of the aforesaid, it is submitted by the learned counsel for the petitioner that at least one opportunity be granted to the petitioner to file his reply and appear before the Assessing Officer to advance arguments, failing which the petitioner undertakes that the demand so raised by the respondents would be paid by the petitioner.

7. *Per contra*, the learned counsel for the respondent State has vehemently opposed the present petition by submitting that three opportunities have already been granted to the petitioner in as much as after issuance of show cause notice to the petitioner on 25.10.2023, reminders dated 05.12.2023 and 06.04.2024 were also issued to the petitioner, however the petitioner did not avail the said opportunities in as much as he neither filed any show cause reply nor appeared before the concerned authority on the dates so fixed, nonetheless it is submitted that he is not averse to the idea of the matter being remanded back by way of final opportunity. Therefore, it is submitted that in case the matter is being remanded back to the



authorities, it be stipulated that in case the petitioner does not appear before the Assessing Officer along with his show cause reply on the date so fixed by this Court, the impugned order dated 24.04.2024 passed by the Office of the Joint Commissioner, State Tax, Patna, West Circle, Patna, shall stand revived and the petitioner shall be liable to pay the total demand amount.

8. We have heard the learned counsel for the parties and perused the materials on record. It is apparent from the records that opportunity of personal hearing was afforded to the petitioner only twice, i.e. *vide* reminders dated 05.12.2023 and 06.04.2024, however Section 75(5) of the Act, 2017 permits that an adjournment can be granted for three times. Another aspect of the matter is that in the reply to the reminder show cause dated 06.04.2024, the petitioner had filed his response on 10.04.2024 in form GST - DRC - 06 and at serial no. 7 thereof, he had opted for personal hearing, however no personal hearing was accorded to the petitioner and instead the impugned order dated 24.04.2024 was passed under the pen and signature of Deputy Commissioner of State Tax, Patna West Circle, Patna, fixing tax liability along with interest and penalty totaling to the sum of Rs. 26,08,987/-. At this



juncture, we may take note of Section 75(4) of the Act, 2017, which mandates grant of an opportunity of hearing where a request in writing is received from the person chargeable with tax or penalty of where any adverse decision is contemplated against such person. Thus, in view of a request having been admittedly received by the proper officer in writing for personal hearing on 10.04.2024, it was incumbent upon the proper officer to have granted an opportunity of hearing to the petitioner prior to passing of the impugned order dated 24.04.2024, thus the said omission on the part of the proper officer has resulted in miscarriage of justice and violation of the principles of natural justice making the impugned order dated 24.04.2024 liable to be set aside.

9. Having regards to the facts and circumstances of the case and for the foregoing reasons, we deem it fit and proper to quash the order dated 24.04.2024 passed by the Deputy Commissioner of State Tax, Patna West Circle, Patna, and remand the matter back to him, fixing 05.05.2026 as the date of personal hearing, on which date the petitioner / its proprietor / authorized representative shall appear before the Concerned Officer at 12:35 PM and submit show cause reply as also advance arguments, failing which the order dated 24.04.2024



shall stand revived and the petitioner shall be liable to immediately deposit the total demand amount of Rs. 26,08,987/- as also other such sums which may have become due and payable in the meantime.

10. Accordingly, the writ petition stands disposed of with the aforesaid observations and directions.

(Mohit Kumar Shah, J)

(Arun Kumar Jha, J)

Shahnawaz/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	22.04.2026
Transmission Date	N/A

