2025(4) eILR(PAT) HC 2454

IN THE HIGH COURT OF JUDICATURE AT PATNA

M/s Bathla Teletech Pvt. Ltd.

vs

State of Bihar and Other

Civil Writ Jurisdiction Case No.17652/2023

11 April 2025

(Hon’ble Mr. Justice P. B. Bajanthri and Hon’ble Mr. Justice Alok Kumar Sinha)

Issue for Consideration

Whether Section 16(2)(b) of the CGST Act is mandatory to the extent of receiving the goods in physical mode by the dealer–petitioner from the supplier or not?

Headnotes

Central Goods and Services Tax Act, 2017—Bihar Goods and Services Tax Act, 2017—Section 16(2)(b)—petitioners claimed Input Tax Credit (ITC) from the concerned Authority—Authority rejected the claim of petitioners on ground that there was no actual movement of goods from the seller to purchasers—petitioners appealed against the order of rejection—Appellate Authority also rejected the claim of petitioners and affirmed the Order of Respondent—received goods or services means that without the receipt of goods or services, ITC cannot be availed—term ‘received’ is essential for establishing eligibility under the law—clarification ensures that physical possession is not the sole criteria for deeming goods ‘received’—under the CGST Act, ITC can be claimed based on deemed receipt, even if the goods are physically received at a later stage or at a different location—petitioners instructed the sellers to delivers the goods to end consumer directly—supplier deposited the Tax collected from the petitioner.

Held: Impugned orders set aside and matter was remanded to the second respondent only to the extent that Whether is there any memorandum of understanding between the petitioner-dealer with the supplier and further materials relating to informing the end consumer to the extent of receipt of goods?

(Paras 16, 19, 20, 21, 22)

Case Law Cited

Aastha Enterprises vs. The State of Bihar and Another passed in CWJC No. 10359 of 2023; State of Karnataka vs. M/s Ecom Gill Trading Private Limited, 2023 SCC OnLine SC 248; SAJ Food Products Pvt. Ltd vs. The State of Bihar and Others passed in CWJC No. 15465 of 2022—**Distinguished.**

List of Acts

Central Goods and Services Tax Act, 2017; Bihar Goods and Services Tax Act, 2017

List of Keywords

Input Tax Credit, actual movement of goods from the seller to the purchaser, bill to ship transaction, Central Goods and Service Tax Rules, 2017, Rule 36, Circular No. 3/1/2018-IGST dated 25.05.2018, Applicability of Integrated Goods and Services Tax,

Case Arising From

Order of Deputy Commissioner of State Tax dated 14.01.2023; and Affirmation Order of Appellate Authority dated 7.10.2023.

Appearances for Parties

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate; Mr. Brisketu Sharan Pandey, Advocate; Mr. Abhishek Kumar, Advocate; Mr. Madan Kumar, Advocate

For the State : Mr. Vivek Prasad, GP 7; Mr. Sanjay Kumar, AC to GP 7; Ms. Roona, AC to GP 7

For UOI : Dr. K.N. Singh, ASG; Mr. Anshuman Singh, Advocate

Headnotes Prepared by**:** ABHAS CHANDRA

Judgment/order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.470 of 2024

==

M/s Sane Retails Private Limited having its Office No. 404A, Kaushalya Estate, Dak Banglow, Dak Banglow, Patna, Bihar, 800001 registered in the Jurisdiction of Patliputra Circle, Patna bearing registration, through its Authorized Representative namely Sandeep Kumar, aged about 32 years (Male), Son of Vinod Kumar, House No. 1358, Second Floor, P.S- Chandigarh Sector-34C, District- Chandigarh. (State- Haryana).

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
5. The Union of India, through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17613 of 2023

==

M/s Bathla Teletech Pvt. Ltd. having its Office at office No.-107, Kalyani Complex, Exhibition Road, Patna registetred in the Jurisdiction of Patliputra Circle, Patna Bearing registration no. 10AAECB9200CIZK, through its Authorized representative Namely Mr. Sachin Saraswat Male, aged about 24 Years, S/o Mahesh Chandra Saraswat, R/o Nahroi, Kunwarpur, PS Kotwali District-Hathras Uttar Pradesh-204101

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-Cum-Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax (Appeal), Central Division, Commercial Taxes Department, Government of Bihar, Patna.
3. The Assistant Commissioner of State Tax, Patliputra Circle, Central Commercial Taxes Department, Government of Bihar, Patna.
4. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Government of India, Bailey Road, Patna.
5. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India,Central Secretariat, North Block, New Delhi-110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17636 of 2023

==

M/s Bathla Telectech Pvt. Ltd. having its office at Office No. 107, Kalyani Complex, Exhibition Road, Patna registered in the jurisdiction of Patliputra Circle, Patna bearing registration No. 10AAECB9200C1ZK, through its Authorized Representative namely Mr. Sachin Saraswat, Male, aged about 24 years, S/o Mahesh Chandra Saraswat, R/o Nahroi, Kunwarpur, Ps Kotwali, District Hathras, Uttar Pradesh-204101.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax (Appeal), Central Division, Commercial Taxes Department, Government of Bihar, Patna.
3. The Assistant Commissioner of State Tax, Patliputra Circle, Central Commercial Taxes Department, Government of Bihar, Patna.
4. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Government of India, Bailey Road, Patna.
5. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17652 of 2023

==

M/S Bathla Teletech Pvt. Ltd. having its Office at Office No.-107, Kalyani Complex, Exhibition Road, Patna registered in the Jurisdiction of Patliputra Circle, Patna Bearing registration no. 10AAECB 9200CIZK, through its Authorized Representative Namely Mr. Sachin Saraswat Male, aged about 24 Years, S/o Mahesh Chandra Saraswat, R/o Nahroi, Kunwarpur, PS Kotwali District-Hathras Uttar Pradesh-204101

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-Cum-Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax (Appeal), Central Division, Commercial Taxes Department, Government of Bihar, Patna.
3. The Assistant Commissioner of State Tax, Patliputra Circle, Central Commercial Taxes Department, Government of Bihar, Patna.
4. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Government of India, Bailey Road, Patna.
5. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block,

North Block, New Delhi-110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17654 of 2023

==

M/s Bathla Teletech Pvt Ltd. having its office at Office No. 107, Kalyani Complex, Exhibition Road, Patna registered in the jurisdiction of Patliputra Cirlce, Patna bearing registration no. 10AAECB9200C1ZK, through its Authorized Representative namely Mr. Sachin Saraswat Male, aged about 24 years, S/o Mahesh Chandra Saraswat, R/o Nahroi, Kunwarpur, P.S Kotwali District- Hathras Uttar Pradesh- 204101.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-Cum-Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax (Appeal), Central Division, Commercial Taxes Department, Government of Bihar, Patna.
3. The Assistant Commissioner of State Tax, Patliputra Circle, Patliputra Circle, Central Commercial Taxes Department, Government of Bihar, Patna.
4. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Government of India, Bailey Road, Patna.
5. The Union of India, through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17914 of 2023

==

M/s Utkrisht Trade Solution Pvt. Ltd. having its office at Office No. 516, Hari Niwas, Dak Bunglow, Maurya Lok, Patna registered in the Jurisdication of Patliputra Circle, Patna bearing registration no. 10AACCU3841NIZD, through its Authorized Representative namely Saddab Akhtar, male aged about 29 years, Son of Asgar Ali, Resident of H.No. 363, Block 3, Dakshinpurin, Dr. Ambedkar Nagar, Police Station - Dr. Ambedkar Nagar, District- South Delhi.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Commissioner of State Tax (Appeal), Central Division, Patna.
2. The Deputy Commissioner of State Tax, Patliputra Circle, Central Division, Pant Bhawan, Bailey Road, Patna.
3. The Commissioner of State Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road.
4. The Union of India, through the Principal Secretary, Department of

Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17920 of 2023

==

M/s Utkrisht Trade Solutions Pvt. Ltd. having its office at Office No. 516, Hari Niwas, Dak Bunglow, Maurya Lok, Patna registered in the jurisdiction of Patliputra Circle, Patna bearing registration No. 10AACCU3841N1ZD, through its Authorised Representative namely Saddab Akhtar, male, aged about 29 years, son of Asgar Ali, resident of H. No. 363, Block 3, Dakshinpuri, Dr. Ambedkar Nagar, Police Station-Dr. Ambedkar Nagar, Distt- South Delhi.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Commissioner of State Tax (Appeal), Central Division, Patna.
2. The Deputy Commissioner of State Tax, Patliputra Circle, Central Division, Pant Bhawan, Bailey Road, Patna.
3. The Commissioner of State Tax, Bihar Goods and Service Tax, Pant Bhawan, Bailey Road, Patna.
4. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 17922 of 2023

==

M/s Utkrisht Trade Solutions Pvt. Ltd. having its office at Office No.- 516, Hari Niwas, Dak Bunglow, Mauryalok, Patna registered in the jurisdiction of Patliputra Circle, Patna bearing registration no. 10AACCU3841N1ZD, through its Authorized Representative namely Saddab Akhtar, male, aged about 29 years, son of Asgar Ali, resident of H. No. 363, Block 3, Dakshinpuri, Dr. Ambedkar Nagar, Police Station- Dr. Ambedkar Nagar, District- South Delhi.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Commissioner of State Tax (Appeal), Central Division, Patna.
2. The Deputy Commissioner of State Tax, Patliputra Circle, Central Division, Pant Bhawan, Bailey Road, Patna.
3. The Commissioner of State Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road. Patna .
4. The Union of India, through the Principal Secretary, Department of

Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18089 of 2023

==

M/s Consulting Rooms Private Limited having its office at Office No. N-15, Ashiyana Galaxy, Exhibition Road, Patna- 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration no. 10AAGCC4236P2ZN, through its Authorized Representative namely Aakanksha Khandelwal, (Female), aged about 32 years, Daughter of Rajesh Kumar Khandelwal, R/o House No. 10, Block-6, 2nd Floor, Spring Field Colony, Sec 31/32, District- Faridabad, Haryana.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar, Patna.
2. The Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assisatant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road.
7. The Union of India, through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18297 of 2023

==

M/s Consulting Rooms Private Limited having its office at Office No. N-15. Ashiyana Galaxy, Exhibition Road, Patna - 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration no. 10AAGCC4236P2ZN, through its Authorized Representative namely Aakanksha Khandelwal, (Female), aged about 32 years, Daughter of Rajesh Kumar Khandelwal, R/o House No. 10, Block-6, 2nd Floor, Spring Field Colony, Sec 31/32 District-Faridabad, Haryana.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary Commercial

Taxes, Governemnt of Bihar, Patna.

2. The Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar, Patna
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar
6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road
7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18326 of 2023

==

M/s Consulting Rooms Private Limited having its office No. N-15, Ashiyana Galaxy, Exhibition Road, Patna - 800001 registered in the Jurisdiction of Patliputra Circle, Patna bearing registration no. 10AAGCC4236P2ZN, through its Authorized Representative namely Aakanksha Khandelwal, (Female), aged about 32 years, Daughter of Rajesh Kumar Khandelwal, R/o House No. 10, Block - 6, 2nd Floor, Spring Field Colony, Sec 31/32, District - Faridabad, Haryana.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar, Patna.
2. The Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road.
7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi - 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18394 of 2023

==

M/s Consulting Rooms Private Limited having its office at Office No. N-15, Ashiyana Galaxy, Exhibition Road, Patna - 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration no. 10AAGCC4236P2ZN, through its Authorized Representative namely Aakanksha Khandelwal, (Female), aged about 32 years, Daughter of Rajesh Kumar Khandelwal, R/o House No. 10, Block-6, 2nd Floor, Spring Field Colony, Sec 31/32 District- Faridabad, Haryana.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary Commercial Taxes, Governemnt of Bihar, Patna.
2. The Commissioner-Cum-Secretary Commercial Taxes, Governemnt of Bihar, Patna
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar
6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road
7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18473 of 2023

==

M/s Consulting Rooms Private Limited having its Ofice at Office No. No.-15, Ashiyana Galaxy, Exhibition Road, Patna 800001 registered in the Jurisdiction of Patliputra Circle, Patna Bearing registrationno. 10AAGCC4236P2ZN, through its Authrorized Representative namely Aakanksha Khandelwal, (Female), aged about 32 years, Daughter of Rajesh Kumar Khandelwal, R/o House No.10, Block-6, 2nd Floor, Spring Field Colony, Sec 31/32, District-Faridabad, Haryana.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-Cum-Secretary Commercial Taxes, Government of Bihar, Patna.
2. The Commissioner-Cum-Secrerary Commercial Taxes, Government of Bihar, Patna.
3. The Additional Commisioner of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commisioner of State Tax Patliputra Ciecle, Patna, Central Bihar

5. The Deputy Commissioner of State Tax, Patliputra Ciecle, Patna, Central Bihar
6. The Commissioner of Central Tax, Bihar Goods and Service Tax Pant Bhawan, Bailey Road
7. The Union of India through the Principal Secreary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18497 of 2023

==

M/s Consulting Rooms Private Limited having its office at Office at N-15, Asiyana Galaxy, Exhibition Road, Patna-800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration No. 10AAGCC4236P2ZN, through its Authorized Representative namely Aakanksha Khandelwal (Female), aged about 32 years, Daughter of Rajesh Kumar Khandelwal, R/o House No. 10, Block 6, 2nd Floor, Spring Field Colony, Sec 31/32, District Faridabad, Haryana.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Secretary Commercial Taxes, Government of Bihar, Patna.
2. The Commissioner cum Secretary, Commercial Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna Central Bihar.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna Central Bihar.
6. The Commissioner of Central Tax, Bihar Good and Services Tax, Pant Bhawan, Bailey Road.
7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi 110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 18662 of 2023

==

M/s Sane Retails Private Limited having its Office No. 404A, Kaushalya Estate, Dak Banglow, Patna, Bihar, 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration, through its Authorized Representative namely Sandeep Kumar, aged about 32 years (Male), Son of Vinod Kumar, House No. 1358, Second Floor, P.S. - Chandigarh Sector - 34C, District - Chandigarh. (State - Haryana)

... ... Petitioner/s

Versus

1. The State of Bihar Through the Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar.
5. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi - 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 15 of 2024

==

M/s Sane Retails Private Limited having its Offce No.404A, Kaushalya Estate, Dak Banglow, Dak Banglow, Patna, Bihar, 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration, through its Authorized Representative namely Sandeep Kumar, aged about 32 years (Male), Son of Vinod Kumar, House No.1358, Second Floor, P.S-Chandigarh Sector- 34C, District-Chandigarh. (State-Haryana)

... ... Petitioner/s

Versus

1. The State of Bihar Through the Commissioner Cum Secretary,Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. Additional Commissioner of State Tax (Appeal), Central Division, Patna
4. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar
5. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 136 of 2024

==

M/s Sane Retails Private Limited having its office No. 404A, Kaushalya Estate, Dak Banglow, Dak Banglow, Patna, Bihar, 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration, through its Authorized Representative namely Sandeep Kumar, aged about 32 years (male), son of Vinod Kumar, House No. 1358, Second Floor, P.s. Chandigarh Sector-34C, District Chandigarh, (State Haryana).

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Deputy Commissioner of State Tax, Patliputra Circle, Patna Central Bihar.
5. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 211 of 2024

==

M/s Shreyash Retail Private Limited, having its office at Basement, Shop No. 2/A, Ashoka Place Besment, Exhibition Road, Patna, Bihar - 800001, through its Authorized Representative namely through its Authorized Representative namely Md Shahid Parwez aged about 41 years (male), son of Md Farooque, Resident of Ward No.- 14, P.O.- Mahuawa, Bishunpurwa, PS Shikarpur District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner -cum- Secretary, Commercial Taxes Department Government of Bihar, Patna.
2. The Commissioner -cum- Secretary, Commercial Taxes Department Government of Bihar Patna, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assisatant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
6. The Commissioner of Central Tax, Bihar Goods and Service Tax, Pant Bhawan, Bailey Road, Patna.
7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 312 of 2024

==

M/s Shreyash Retail Private Limited having its office at Besment, Shop No. 2/A, Ashoka Place Besment, Exhibition Road, Patna, Bihar- 800001, through its Authorized Representative namely through its Authorized Representative namely Md. Shahid Parwez aged about 41 years (male), Son of Md. Farooque, Resident of Ward No. 14, P.O.- Mahuawa, Bishunpurwa, PS- Shikarpur, District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner -cum- Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner -cum- Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commissioner of State Tax, Patliputra Cirlce, Patna, Central Bihar, Patna.
5. The Deputy Commissioner of State Tax, Patliputra Cirlce, Patna, Central Bihar, Patna.
6. The Commissioner of Central of Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road, Patna.
7. The Union of India, through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 343 of 2024

==

M/s Sane Retails Private Limited having its Office No.- 404A, Kaushalya Estate, Dak Banglow, Dak Banglow, Patna Bihar, 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration, through its Authorized Representative namely Sandeep Kumar, aged about 32 years (Male), Son of Vinod Kumar, House No.- 1358, Second Floor, P.S.- Chandigarh Sector- 34C, District- Chandigarh, (State- Haryana).

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central, Bihar.
5. The Union of India, through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat,

North Block, New Delhi- 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 345 of 2024

==

M/s Sane Retails Private Limited having its Offce No.404A, Kaushalya Estate, Dak Banglow, Dak Banglow, Patna, Bihar, 800001 registered in the jurisdiction of Patliputra Circle, Patna bearing registration, through its Authorized Representative namely Sandeep Kumar, aged about 32 years (Male), Son of Vinod Kumar, House No.1358, Second Floor, P.S-Chandigarh Sector- 34C, District-Chandigarh. (State-Haryana)

... ... Petitioner/s

Versus

1. The State of Bihar Department of Commercial Taxes / State Tax, Government of Bihar, Patna, Bihar.
2. The Commissioner Cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. Additional Commissioner of State Tax (Appeal), Central Division, Patna
4. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar
5. The Union of India Through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 356 of 2024

==

M/s Shreyash Retail Private Limited having its office at Besment, Shop No. 2/A, Ashoka Place Besment, Exhibition Road, Patna, Bihar-800001, through its Authorized Representative namely through its Authorized Representative namely Md. Shahid Parwez aged about 41 years (male), son of Md. Farooque, Resident of Ward No.14, P.O. Mahuawa, Bishunpurwa, PS Shikarpur, District-West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner cum Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central

Bihar, Patna.

6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road, Patna.

7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 430 of 2024

==

M/s Shreyash Retail Private Limited having its office at Besment, Shop No. 2/A, Ashoka Place Besment, Exhibition Road, Patna, Bihar - 800001, through its Authorized Representative namely through its Authorized Representative namely Md Shahid Parwez aged about 41 years (male), son of Md Farooque, Resident of Ward No. - 14, P.O. - Mahuawa, Bishunpurwa, PS Shikarpur District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Commercial Taxes Department Government of Bihar, Patna.

2. The Commissioner-cum-Secretary, Commercial Taxes Department Government of Bihar Patna, Patna.

3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.

4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.

5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.

6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road, Patna.

7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi - 110001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 542 of 2024

==

M/s Shreyash Retail Private Limited having its office at Besment, Shop No. 2/A, Ashoka Place Basment, Exhibition Road, Patna, Bihar - 800001, through its Authorized Representative namely through its Authorized Representative namely Md Shahid Parwez aged about 41 years (male), son of Md Farooque, Resident of Ward No.- 14, P.O.- Mahuawa, Bishunpurwa, P.S. Shikarpur District- West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner -cum- Secretary, Commercial Taxes Department Government of Bihar, Patna.
2. The Commissioner -cum- Secretary, Commercial Taxes Department Government of Bihar Patna, Patna.
3. The Additional Commissioer of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
6. The Commissioner of Central Tax, Bihar Goods and Services Tax, Pant Bhawan, Bailey Road, Patna.
7. The Union of India through the Principal Secretary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi- 110 001.

... ... Respondent/s

==

with

Civil Writ Jurisdiction Case No. 549 of 2024

==

M/s Shreyash Retail Private Limited having its Office at Besment, Shop No.2/A, Ashoka Place Besment, Exhibition Road, Patna, Bihar-800001, through its Authorized Representative namely Md Shahid Parwez aged about 41 Years (Male), Son of Md Farooque, Resident of Ward No.-14, P.O.- Mahuawa, Bishunpurwa, PS Shikarpur District-West Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-Cum-Secreary, Commercial Taxes Department Government of Bihar, Patna.
2. The Commissioner-Cum-Secretary, Commercial Taxes Department Government of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
5. The Deputy Commissioner of State Tax, Patliputra Circle, Patna, Central Bihar, Patna.
6. The Commissioner of Central Tax, Bihar Goods ans Services Tax, Pant Bhawan, Bailey Road, Patna.
7. The Union of India through the Principal Secreary, Department of Revenue, Ministry of Finance, Government of India, Central Secretariat, North Block, New Delhi-110001.

... ... Respondent/s

==

Appearance :

(In Civil Writ Jurisdiction Case No. 470 of 2024)

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC 11
For UOI	:	Dr. K.N. Singh, ASG Mr. Anshuman Singh, Advocate

(In Civil Writ Jurisdiction Case No. 17613 of 2023)

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7
For UOI	:	Dr. K.N. Singh, ASG Mr. Anshuman Singh, Advocate

(In Civil Writ Jurisdiction Case No. 17636 of 2023)

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7
For UOI	:	Dr. K.N. Singh, ASG Mr. Anshuman Singh, Advocate

(In Civil Writ Jurisdiction Case No. 17652 of 2023)

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7
For UOI	:	Dr. K.N. Singh, ASG Mr. Anshuman Singh, Advocate

(In Civil Writ Jurisdiction Case No. 17654 of 2023)

For the Petitioner/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7
For UOI	:	Dr. K.N. Singh, ASG Mr. Anshuman Singh, Advocate

(In Civil Writ Jurisdiction Case No. 17914 of 2023)

For the Petitioner/s	:	Mr. Tarun Gulati, Sr. Advocate Mr. Kishore Kunal, Advocate Mr. Anuj Kumar, Advocate Mr. Parijat Saurav, Advocate Ms. Ankit Prakash, Advocate

For the Respondent/s : Mr. P.K. Shahi, AG
Mr. Vikash Kumar, SC 11
For UOI : Dr. K.N. Singh, ASG
Mr. Anshuman Singh, Advocate
(In Civil Writ Jurisdiction Case No. 17920 of 2023)
For the Petitioner/s : Mr. Tarun Gulati, Sr. Advocate
Mr. Kishore Kunal, Advocate
Mr. Anuj Kumar, Advocate
Mr. Parijat Saurav, Advocate
Ms. Ankit Prakash, Advocate
For the Respondent/s : Mr. P.K. Shahi, AG
Mr. Vikash Kumar, SC 11
For UOI : Dr. K.N. Singh, ASG
Mr. Anshuman Singh, Advocate
(In Civil Writ Jurisdiction Case No. 17922 of 2023)
For the Petitioner/s : Mr. Tarun Gulati, Sr. Advocate
Mr. Kishore Kunal, Advocate
Mr. Anuj Kumar, Advocate
Mr. Parijat Saurav, Advocate
Ms. Ankit Prakash, Advocate
For the Respondent/s : Mr. P.K. Shahi, AG
Mr. Vikash Kumar, SC 11
For UOI : Dr. K.N. Singh, ASG
Mr. Anshuman Singh, Advocate
(In Civil Writ Jurisdiction Case No. 18089 of 2023)
For the Petitioner/s : Mr. Mrigank Mauli, Sr. Advocate
Mr. Brisketu Sharan Pandey, Advocate
Mr. Abhishek Kumar, Advocate
Mr. Madan Kumar, Advocate
For the State : Mr. Vivek Prasad, GP 7
Mr. Sanjay Kumar, AC to GP 7
Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 18297 of 2023)
For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
Mr. Madan Kumar, Advocate
Mr. Abhishek Kumar, Advocate
For the State : Mr. Vivek Prasad, GP 7
Mr. Sanjay Kumar, AC to GP 7
Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 18326 of 2023)
For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
Mr. Abhishek Kumar, Advocate
Mr. Madan Kumar, Advocate
For the State : Mr. Vivek Prasad, GP 7
Mr. Sanjay Kumar, AC to GP 7
Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 18394 of 2023)
For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
Mr. Madan Kumar, Advocate
Mr. Abhishek Kumar, Advocate
For the State : Mr. Vivek Prasad, GP 7
Mr. Sanjay Kumar, AC to GP 7
Ms. Roona, AC to GP 7

(In Civil Writ Jurisdiction Case No. 18473 of 2023)
For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
Mr. Madan Kumar, Advocate

		Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7
		Mr. Sanjay Kumar, AC to GP 7
		Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 18497 of 2023)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7
		Mr. Sanjay Kumar, AC to GP 7
		Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 18662 of 2023)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Abhishek Kumar, Advocate
		Mr. Madan Kumar, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA 11
(In Civil Writ Jurisdiction Case No. 15 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC 11
(In Civil Writ Jurisdiction Case No. 136 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA 11
(In Civil Writ Jurisdiction Case No. 211 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Abhishek Kumar, Advocate
		Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7
		Mr. Sanjay Kumar, AC to GP 7
		Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 312 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7
		Mr. Sanjay Kumar, AC to GP 7
		Ms. Roona, AC to GP 7
(In Civil Writ Jurisdiction Case No. 343 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Raghwanand, GA 11
(In Civil Writ Jurisdiction Case No. 345 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Standing Counsel 11
(In Civil Writ Jurisdiction Case No. 356 of 2024)		
For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
		Mr. Abhishek Kumar, Advocate
		Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7
		Mr. Sanjay Kumar, AC to GP 7
		Ms. Roona, AC to GP 7

(In Civil Writ Jurisdiction Case No. 430 of 2024)

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate Mr. Abhishek Kumar, Advocate Mr. Madan Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7

(In Civil Writ Jurisdiction Case No. 542 of 2024)

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate Mr. Madan Kumar, Advocate Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7

(In Civil Writ Jurisdiction Case No. 549 of 2024)

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate Mr. Madan Kumar, Advocate Mr. Abhishek Kumar, Advocate
For the State	:	Mr. Vivek Prasad, GP 7 Mr. Sanjay Kumar, AC to GP 7 Ms. Roona, AC to GP 7

==

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-04-2025

In these bunch of petitions, petitioners are stated to be registered dealers. They had claimed Input Tax Credit (for short 'ITC') under Section 16 (2) of the Central Goods and Services Tax Act, 2017 (for short 'CGST Act') / Bihar Goods and Services Tax Act, 2017 (for short 'BGST Act') for a particular period and their claims have been rejected by the Deputy Commissioner of State Tax, Patliputra Circle, Central Division, Patna. Feeling aggrieved by the decision of the aforementioned Officer, they have availed statutory remedy of appeal before the appellate authority viz., Additional Commissioner of State Tax (Appeal), Central Division, Patna. The appellate authority has affirmed the decision of the Deputy Commissioner of State Tax in each of the cases. Hence, each of the petitioners have assailed the decisions of the aforementioned authorities.

2. For the purpose of factual aspects of the matter, the lead case is **CWJC No. 17914 of 2023** in the matter of ***M/s Utkrisht Trade Solutions Pvt. Ltd. vs. The State of Bihar and Others.*** Brief facts of the case in ***M/s Utkrisht Trade Solutions Pvt. Ltd. vs. The State of Bihar and Others*** are as under :

Date	Particulars
	The Petitioner is a company having its principal place of business **("PPOB")** situated at office No. -516, Hari Niwas, Dak Bunglow, MauryaLok, Patna and is engaged in the business of trading in consumer goods including technology equipment's lifestyle products, electronic items, home appliances, home décor etc. across India including State of Bihar.
17.10.2022	An inspection was carried out by the Respondent at PPOB and additional place of business **("APOB")** of the Petitioner under Section 67 of the CGST and SGST Act, *prima facie* on the reason that the entire output tax liability for the relevant period were paid by the Petitioner by way of ITC and not cash ledger. (Annexure – 6)
18.10.2022	Summon under Section 70 of the CGST Act was issued by the Respondent No. 1 to the director of the Petitioner to give evidence and produce the relevant documents for the period December 2017 to 25.08.2022. (Annexure - 7)
04.11.2022 25.11.2022	The Petitioner replied to the above summon and submitted the requested documents before the Respondent No. 2 (Annexure – 8) (Annexure – 9)

29.11.2022	Intimation and statement of liability of the tax was served upon the Petitioner by Respondent No. 2 in GST-DRC-01. (Annexure-10)
12.12.2022	The Petitioner replied the aforesaid intimations in Part B of GST DRC-01A as per Rule 142(2A) of the CGST Rules disputing the entire amount of tax demanded by the Respondent No. 2. (Annexure – 11)
13.12.2022	Summary of show cause notices in GST DRC-01 and the show cause notices ("SCNs") under Section 73(1) of the Act for the relevant period was served upon the Petitioner. (Annexure – 12)
12.01.2023	The Petitioner replied to the aforesaid SCN once again disputing the entire tax demanded by the Respondent No. 2 (Annexure-13)
14.01.2023	The Respondent No. 2 passed the Orders under Section 73(9) of the CGST Act for the relevant period and directed the Petitioner to deposit the tax due amounting Rs. 26,14,086/- Rs. 7,45,014/- and Rs. 2,61,410/- (Annexure – 14)
20.02.2023	Recovery proceedings under Section 79 was initiated by the Respondent No. 2 by issuing FORM GST DRC-13 to the bank of the Petitioner. (Annexure – 15)
25.02.2023	The Petitioner requested Respondent No. 2 to remove lien created on the bank accounts and also submitted that the statutory timeline to file the appeal against the Adjudication Order has not lapsed. (Annexure – 16)
09.03.2023	The Petitioner being aggrieved of the Order, filed an appeal before the Respondent No. 2 under Section 107 of the CGST Act. (Annexure – 17)
11.08.2023	The Respondents filed response to the grounds raised by the Petitioner. (Annexure – 18)
21.08.2023	The Petitioner filed the additional submission before the Respondent No. 1. (Annexure – 19)
07.10.2023	The Respondent No. 1 passed the Order-In-Appeal ("Impugned Order") rejecting the appeal of the Petitioner. (Annexure – 1).

Submissions on behalf of the petitioner

3. Learned senior counsel *Mr. Tarun Gulati* for the petitioner submitted that the petitioner has assailed the decision of the second respondent dated 14.01.2023 (Annexure P - 14) by which petitioner's claim for ITC has been dismissed and further demand of Rs. 26,14,086/- is raised in the guise of rejecting ITC claim of the petitioner on the sole issue that whatever purchases of goods made from the supplier by the petitioner, there is no actual movement of goods in terms of Section 16 (2) (b) (i) of CGST Act / BGST Act. Thereafter, petitioner had preferred appeal before the appellate authority and it has been affirmed vide decision of the second respondent dated 07.10.2023 (Annexure P – 1).

4. It is submitted that under GST legislation, in the event of trading of goods, tax is chargeable when a purchaser purchases goods from a seller, he / she pays the tax for the value of goods as well as GST thereon. The GST actually paid by the purchaser to the seller is available as ITC to the purchaser which is used for discharging GST when the purchaser further releases these goods, resultantly, the effective tax on him / her is only on his value addition as the tax suffered in the previous transaction is available as a credit while discharging tax on further release. Overall condition for the claim of ITC under Section 16 of the

CGST Act is that purchaser who has actually paid the tax to the seller and the seller had deposited the tax with the concerned government. It is submitted that petitioner had fulfilled the conditions stipulated under Section 16 of the CGST Act for claiming CGST. Sole contention of the respondents is that there is no actual movement of goods from the seller to the purchaser, on the other hand, contention of the petitioner is that petitioner had directed the seller to deliver the goods to the end consumer, resultantly, actual goods movement from seller to the dealer like petitioner is not existing and it is not warranted. Such arrangement has been made to overcome certain issues to the extent that goods need not be delivered to dealer – petitioner from supplier and it could be delivered to the end consumer by supplier directly on the request of dealer – petitioner. Whereas transaction papers relating to purchase and payment of tax by the petitioner to the seller and in-turn seller had remitted tax to the government, therefore, denial of ITC to the petitioner is on flimsy ground. The respondents have not disputed that the petitioner had paid tax to the seller and in-turn seller had paid tax to the government. In such circumstances, there is no point in verifying whether goods were received by the dealer physically or not?

5. In the impugned order, concerned authority has taken note of two decisions *namely* ***Aastha Enterprises vs. The State of Bihar and Another*** passed in **CWJC No. 10359 of 2023** and judgment of the Hon'ble Supreme Court in the case of ***State of Karnataka vs. M/s Ecom Gill Trading Private Limited*** reported in **2023 SCC OnLine SC 248** and further counter affidavit and supplementary counter affidavit have been filed in improving the impugned orders to the extent that deeming provision under Section 16 (2) (b) of CGST Act is for 'bill to ship transaction', which is not the model followed by the petitioner and the business model claimed to be followed by the petitioner.

6. Learned senior counsel for the petitioner submitted that two decisions cited *supra* have no application to the facts of the present case. In the present case, sole issue is whether the petitioner has complied Section 16 (2) (b) to the extent that *'(b) he has received the goods or services or both'.* The aforementioned provision is whether he has received the goods or not is the issue in the present *lis*. It is not disputed by the respondents that on purchase from the seller by the petitioner, he is in receipt of goods. No doubt physically goods have not been received by the petitioner, however, petitioner had given instruction to supplier that purchased goods by the petitioner were required to be delivered to the end purchaser directly instead of delivering the goods to the petitioner to avoid multiplicity factors like purchased goods transporting from one place to another and to yet another place. To this effect, documents are available and the same have been placed before the authorities and the authorities have not appreciated only on the sole ground that petitioner was not in receipt of goods physically on purchase of goods from the seller.

7. Learned counsel for the petitioner submitted that cited decision *namely* ***Aastha Enterprises*** (*supra*) in which the seller had defaulted in not remitting tax to the government, this is evident from paragraph Nos. 6, 10, 12 and 13, whereas in the present case supplier had deposited tax collected by him in the government and it is not disputed by the respondents. Decision in the case of ***State of Karnataka*** (cited *supra*) is not in respect of interpretation of Section 16 (2) (b) insofar as receipt of goods *namely '(b) he has received the goods or services or both'.* Hence the citations are distinguishable on factual and legal aspects.

8. Learned senior counsel for the petitioner relied on Rule 36 of the Central Goods and Service Tax Rules, 2017 and Circular No. 3/1/2018-IGST dated 25.05.2018, it relates to 'Applicability of Integrated Goods and Services Tax (integrated tax) on goods supplied while being deposited in a customs bonded warehouse-reg.', Paragraph No. 3, Circular No. 61/35/2018-GST dated 04.09.2018 relating to 'E-way Bill in case of storing goods in godown of transporter', Paragraph Nos. 3 and 5. Circular No. 241/35/2024-GST dated 31.12.2024, it is crystal clear that goods purchased by the dealer need not be physically delivered to him, on the other hand, manufacturer/seller on purchase of goods by the dealer and on instruction of dealer, purchased goods could be delivered to the end purchaser. In the light of the aforementioned position that goods purchased by the petitioner – dealer from supplier/manufacturer and on instruction of dealer to the manufacturer/supplier, purchased goods could be delivered to the end purchaser or consumer is the position in the present case, therefore, petitioner is entitled to claim ITC and rejection of his claim is liable to be set aside and further direction may be issued insofar as claim of ITC.

Submissions on behalf of Respondent – State

9. Learned counsel for the respondent - State contended that under Section 16 (2) (b) read with Section 31 of the CGST Act relating to Tax Invoice, movement of goods from supplier to dealer are mandatory. In support of the aforementioned contention he relied on a decision *namely* ***State of Karnataka vs. M/s Ecom Gill Trading Private Limited.*** He also relied on supplementary counter affidavit filed on behalf of respondent No. 2, in particularly, paragraph Nos. 6 and 22 read with Section 35 and so also yet another decision in the case of ***SAJ Food Products Pvt. Ltd vs. The State of Bihar and Others*** passed in **CWJC No. 15465 of 2022.**

10. Learned counsel for the respondent - State submitted that Circular dated 31.12.2024 cited on behalf of the petitioners is distinguishable and the same is not attracted in the present case for the reasons that in the cited Circular dated 31.12.2024, it is work contract among manufacturer and purchaser, in which there was an agreement or memorandum of understanding to the extent that goods were required to be delivered to the end purchaser or consumer by the manufacturer, on instruction of the dealer. Whereas in the present case the situation is not similar and materials are not existing insofar as work contract, in other words, there is no work contract / agreement among the seller, dealer and purchaser or end consumer. In the absence of such agreement / memorandum of understanding, whatever the transactions among the petitioner and supplier and the end consumer or purchaser are only on paper whereas Section 16 (2) (b) of the CGST Act is specific that receiving of goods is mandatory. Accordingly, petitioners have not made out a case so as to interfere with the impugned orders and CWJC is liable to be dismissed.

Analysis

11. Heard learned counsels for the respective parties.

12. There are three types of GST under the Indian GST system -

> **(a) CGST** – Collected by the Central Government on intra – State supplies.
>
> **(b) SGST** – Collected by the State Government on intra – State supplies.
>
> **(c) IGST** – Integrated goods and service tax by the Central Government intra – State supplies.

The GST has benefited in improving the efficiency of the indirect tax structure in India, reducing tax cascading, improving compliance, and creating a more uniform tax regime across country. GST is charged at every stage of the production and distribution process, but it is ultimately borne by the final consumer / end consumer. The tax is reimbursed to all the parties involved in the production process, except for the final consumer or end consumer.

ITC – Business can claim ITC for GST paid on inputs used in production of goods and services, which helps to eliminate the cascading effect of tax.

13. Before adverting on the merits of the case, it is necessary to take note of certain statutory provisions like Section 16 relates to Eligibility and conditions for taking Input Tax Credit, Section 31 relates to Tax Invoice, Section 35 relates to Accounts and other records and Section 155 relates to Burden of Proof of CGST Act. Learned senior counsel for the petitioner submitted that impugned orders are liable to be set aside on the sole issue that Section 16 (2) (b) *namely '(b) he has received the goods or services or both',* receipt of goods in physical mode is not mandatory, since receipt of goods is to be interpreted in what mode *viz*, visible or invisible on behalf of dealer – petitioner from the supplier. Extract of the aforementioned provisions are as follows :

> *"**16. Eligibility and conditions for taking input tax credit** (1) – Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*
>
> ***16 (2) (b) he has received the goods or services or both.*** **Underline Supplied**
>
> *[Explanation. - For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services -*
>
> *(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person;]

(c) subject to the provisions of [section 41 or section 43 A], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through uitlisation of input tax credit admissible in respect of the said supply; and

31. Tax Invoice. *- (1) A registered person supplying taxable goods shall, before or at the time of,*

(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case,

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

[Provided that the Government may, on the recommendations of the Council, by notification, -

(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;

(b) subject to the condition mentioned therein, specify the categories of services in respect of which -

(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(ii) tax invoice may not be issued.]

(3) Notwithstanding anything contained in sub-sections (1) and (2) -

(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.

(4) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

(5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,

(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

(6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

(7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Explanation – For the purposes of this section, the expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier

This clause provides for issuance of tax invoice within the prescribed period showing the prescribed particulars. This clause also empowers the Government to specify services, for which any other document issued in lieu of tax invoice, shall be deemed to be tax invoice and also specify services where no tax invoice is required to be issued. This clause provides for issue of documents other than tax invoice in certain cases. (Notes on Clauses).

***35. Accounts and other records** -(1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of--*

(a) production or manufacture of goods;

(b) inward and outward supply of goods or services or both;

(c) stock of goods;

(d) input tax credit availed;

(e) output tax payable and paid; and

(f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

(2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

(3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

(4) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

Provided that noting contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force."

(6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

This clause provides that every registered person shall keep and maintain at his principal place of business records showing true account of specified particulars. This clause casts responsibility on owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter to maintain specified records. This clause empowers the Commissioner to notify a class of taxable *persons to maintain additional accounts in other prescribed manner. This clause provides that every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant. (Notes on Clauses).*

155. Burden of proof *– Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.*

This clause provides that the burden of proving rightful claim of input tax credit will lie on the person claiming the credit. (Notes on clauses)."

14. Respondent - State relied on two decisions *namely* in the case of ***Aastha Enterprises*** (cited *supra*) and in the case of ***State of Karnataka*** (cited *supra)***,*** It is necessary to reproduce paragraph No. 15 of the aforementioned judgment in the case of ***State of Karnataka vs. M/s Ecom Gill Trading Private Limited*** and it reads as under :

*"**15.** Thus, the provisions of Section 70, quoted hereinabove, in its plain terms clearly stipulate that the burden of proving that ITC claim is correct lies upon the purchasing dealer claiming such ITC. Burden of proof that ITC claim is correct is squarely upon the assessee who has to discharge the said burden. Merely because the dealer claiming such ITC claims that he is a bona fide purchaser is not enough and sufficient. The burden of proving the correctness of ITC remains upon the dealer claiming such ITC. Such a burden of proof cannot get shifted on the Revenue. Mere production of the invoices or the payment made by cheques is not enough and cannot be said to be discharging the burden of proof cast under Section 70 of the KVAT Act, 2003. The dealer claiming ITC has to prove beyond doubt the actual transaction which can be proved by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgment of taking delivery of goods, tax invoices and payment particulars, etc. The aforesaid information would be in addition to tax invoices, particulars of payment, etc."*

15. Having regard to the fact that material information were not placed in that case relating to selling, dealer details of vehicle and other issues are concerned whereas in the present case the petitioner is stated to have produced all necessary documents, therefore, the Assessing Officer is required to once again examine what was the memorandum of understanding among the seller, dealer and what was the communication to the end consumer insofar as the delivery of goods in the absence of receipt of goods by the petitioner – dealer. Further, in the case of ***SAJ Food Products Pvt. Ltd*** (cited *supra),* it is in respect of non-availment of alternative remedy before the GST Tribunal and deposit of 20 %. GST Tribunal has not been constituted and question of 20 % or 10 % was with reference to various circulars was the issue. In the present case the issue is entirely different to the extent that whether petitioner being a dealer is in receipt of goods from the supplier and thereafter it was sold to end consumer/purchaser and in-turn supplier has directly delivered the goods purchased by the petitioner – dealer to the end consumer or not. In this regard, the Assessing Officer has to take note of the aforementioned ingredients.

16. To overcome certain issues relating to transportation and delivery of goods on more than one occasion, there is agreement / memorandum of understanding between dealer and the supplier. On purchase of goods from the supplier, supplier was requested to deliver the goods to the end consumer directly, resultantly, there is no physical movement of goods to the petitioner from the supplier. This has not been appreciated by both the authorities in their impugned orders. In fact, respective contentions urged by the petitioners have not been appreciated and not dealt with, to that extent there is total non-application of mind. Whatever documents demanded by the authorities have been furnished from time to time with reference to their show cause notices and other communications. The cited two decisions *namely* in the case of ***Aastha Enterprises*** and ***State of Karnataka*** (cited *supra*) by the authorities have no application to the case in hand. They are distinguishable. Learned senior counsel heavily relied on latest Circular dated 31.12.2024 to the effect that goods need not be physically delivered to the dealer by the supplier on an understanding between the dealer and supplier, the supplier could deliver the goods directly to the end consumer on instruction. In the present case, situation is on par with the Circular, therefore, petitioner is entitled to ITC. On the other hand, contention of the State - respondent is only to the extent that Section 16 (2) (b) of the CGST Act movement of goods physically to the dealer from the supplier, read with Section 31 of the CGST Act relating to Tax Invoice. He relied on two decisions *namely* in the case of ***Aastha Enterprises*** and ***State of Karnataka*** (cited *supra*) and another in the case of ***SAJ Food Products Pvt. Ltd*** (cited *supra)* and Section 35. Taking note of the overall contentions, core issue involved in the present *lis* is whether Section 16 (2) (b) of the CGST Act is mandatory to the extent of receiving the goods in physical mode by the dealer – petitioner from the supplier or not?

17. Chapter – V is in respect of Input Tax Credit (ITC) Section 16 to 21 of CGST Act. Under Section 16 requirements are *(a)* possession of purchase invoice and details of such invoices or debit – GSTR – 1 (supplier) to upload in portal. Seller must reveal GST of dealer (under Finance Act, 2021) *(b)* received goods or both. The overall requisites are Invoice/Debit note (documents) GSTR – 2A/2B. GSTR - 1 (supplier) must be registered and uploaded in the portal and GSTR – 2B must reflect. Receipt goods delivery is mandatory and it is not mandatory that in physical mode, since Section 16 (2) (b) is in respect of received goods. Under Section 38 Recipient information by supplier (portal is under Section 37) and return filed under Section 39 (ITC Reversible GSTR – 3B) under Rule 36 documents required are invoice, recipient, proof of tax, debit note, revised invoice to claim ITC.

18. Refund of accumulated ITC, for claiming ITC petitioner has to file form RFD – 01 with supporting material information within the time slot under Section 54 of the CGST Act read with Rule 89 of CGST Rules (i) supplier has filed GST returns and (ii) supplier has uploaded the invoice in their GSTR - 1 and GSTR – 2B of the recipient or buyer. In terms of CGST Circular No. 241/35/2024-GST dated 31.12.2024 in cases where goods are delivered by the supplier to the registered person (dealer), either directly or to any other person on the instruction of the said registered person. The registered person shall be considered to have received the said goods for the purpose of Clause (b) of Sub-Section (2) of Section 16 of CGST Act. Cases where goods are deemed to have been received by the registered person and in terms of explanation to Section 16 (2) (b) of CGST Act, the goods shall be deemed to be received by the registered person where :

> * *the goods are delivered by the supplier to a recipient or to any other person on the direction of such registered person, whether acting as a agent or otherwise;*
>
> * *such direction may be given before or during movement of goods; and*

> * *the goods may be delivered either by way of transfer of document of title to goods or otherwise.*

19. 'Received' – goods or services. This means that without the receipt of goods or services, ITC cannot be availed. The term 'received' is essential for establishing eligibility under the law.

Explanation of 'deemed receipt' scenarios –

The explanation under Clause (b) of sub-Section (2) of Section 16 of CGST Act expands the interpretation of 'received' to include specific situations where the registered person may not have physical possession of the goods. Goods are deemed to be 'received' under the following conditions -

> (a) When the supplier delivers the goods to a transporter or another person on the registered person's instructions, either before or during the movement of goods.
>
> (b) When delivery of goods is confirmed through the transfer of documents of title or physical handover.

This clarification ensures that physical possession is not the sole criteria for deeming goods 'received'.

The CGST Act does not require that goods must be physically received at a specific location for ITC eligibility. This is a significant departure from older laws such as Central Excise, which required physical receipt on the manufacturer's premises for claiming CENVAT credited. Under the CGST Act, ITC can be claimed based on deemed receipt, even if the goods are physically received at a later stage or at a different location. Accordingly, in terms of explanation whether goods are delivered by the supplier to any other person upon the direction of the registered person then the registered person shall be deemed to have 'received' such goods for the purpose of Section 16 (2) (b) of CGST Act. It is necessary to take note of further compliance relating to goods should be used for the purpose of and furtherance of business, subject to fulfillment of other conditions of Section 16 and Section 17 of the CGST Act including the condition that the said goods are used or intended to be used in the course or furtherance of business by the said registered person. If such goods are found to be used for non-business purpose, at any stage, that is before physical receipt of goods or subsequently the registered person shall not be entitled to ITC in respect of such goods under Section 16 (1) of CGST Act.

20. In view of these facts and circumstances, receipt of goods by the dealer from supplier need not be in physical mode. On the other hand, if the dealer apprise the competent authority to the extent that there is an agreement / memorandum of understanding among the supplier, dealer and intimation to the end consumer insofar as transactions of purchase of goods and its delivery to the end consumer. In the present case, the petitioner submitted that he had produced all necessary material information to the concerned authority to the extent that he is in receipt of goods from the supplier. On the other hand, he had given instruction to the supplier to supply the purchased goods to the end consumer. To this extent the concerned authority is required to examine relevant material information like papers of memorandum of understanding / agreement among the petitioner – dealer and supplier and intimation to the end consumer so as to complete the transactions relating to purchase of goods by the dealer from the supplier and further selling the goods to the end consumer and receipt of goods or not?

21. The cited decisions on behalf of the respondents are not assisting having regard to the issue involved in the present *lis*. The cited decisions are not relating to interpretation of Section 16 (2) (b) of CGST Act insofar as receipt of goods in the physical mode or not read with the fulfilling other conditions. In the case of ***Aastha Enterprises*** (cited *supra*), supplier had not deposited tax collected from the purchaser to the concerned government and it is mandatory. In the present case, the supplier is stated to have deposited tax collected from the petitioner and it is not disputed by the State - respondent.

22. In the light of these facts and circumstances, petitioner has made out a case so as to interfere with the impugned orders dated 14.01.2023 (Annexure – P 14) and 07.10.2023 (Annexure – P 1) and they are set aside. Matter is remanded to the second respondent – the Deputy Commissioner of State Tax, Patliputra Circle, Central Division, Pant Bhawan, Bailey Road, Patna to undertake fresh exercise insofar as compliance to Rule 16 (2) (b) of the CGST Act only to the extent that whether is there any memorandum of understanding between the petitioner - dealer with the supplier and further materials relating to informing the end consumer to the extent of receipt of goods (delivery of goods by the supplier, directly or through transporter or not?). If these materials are examined and material information are in favour of the petitioner, in that event, the concerned authority is hereby directed to redress the grievance of the petitioner in accordance with law, if petitioner fails to apprise with material information to the extent of supplier on instruction from petitioner – dealer, supplier has delivered goods to the end consumer with documentary proof, a detailed speaking order shall be passed after issuing detailed notice and receipt of explanation from the petitioner, the above exercise shall be undertaken within a period of six months from the date of receipt of copy of this order. Petitioner shall co-operate with authorities.

Re : CWJC No. 470 of 2024, CWJC No. 17613 of 2023, CWJC No. 17636 of 2023, CWJC No. 17652 of 2023, CWJC No. 17654 of 2023, CWJC No. 17920 of 2023, CWJC No. 17922 of 2023, CWJC No. 18089 of 2023, CWJC No. 18297 of 2023, CWJC No. 18326 of 2023, CWJC No. 18394 of 2023, CWJC No. 18473 of 2023, CWJC No. 18497 of 2023, CWJC No. 18662 of 2023, CWJC No. 15 of 2024, CWJC No. 136 of 2024, CWJC No. 211 of 2024, CWJC No. 312 of 2024, CWJC No. 343 of 2024, CWJC No. 345 of 2024, CWJC No. 356 of 2024, CWJC No. 430 of 2024, CWJC No. 542 of 2024, CWJC No. 549 of 2024

23. These matters are similar to CWJC No. 17914 of 2023 ***(M/s Utkrisht Trade Solutions Pvt. Ltd. vs. The State of Bihar and Others)*** and it is not disputed by the respective counsels for the petitioners and respondents. Accordingly, impugned orders in each of the petitions are set aside and matter is remanded to the Deputy Commissioner of State Tax, Patliputra Circle, Central Division, Pant Bhawan, Bailey Road, Patna to undertake fresh exercise insofar as compliance to Rule 16 (2) (b) of the CGST Act only to the extent that whether is there any memorandum of understanding between the petitioner - dealer with the supplier and further with the end consumer to the extent of receipt of goods (delivery of goods by the supplier directly or through transporter or not ?). If these materials are examined and material information are in favour of the petitioner, in that event, the concerned authority is hereby directed to redress the grievance of the petitioner in accordance with law within a period of six months from the date of receipt of copy of this order.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

GAURAV S./-

AFR/NAFR	**AFR**
CAV DATE	27.03.2025
Uploading Date	11.04.2025
Transmission Date	