

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2189 of 2025

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M/s Okaya Power Private Limited, having its office at Village - Illahibag,
Mauza - Bairiya, P.S. - Gopalpur, Patna through its authorized representative
Monika Bansal, aged about 34 Years, D/o - Jainarain Bansal, Residing at 18,
Nangloi, Extension 1, P.S. - Nangloi, District - West Delhi, Pin - 110041.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
2. The Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
3. The State of Bihar, through the Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
4. The Commissioner cum Secretary, Commercial Taxes Department, Govt. of Bihar, Patna.
5. The Additional Commissioner of State Taxes (Appeals), Central Division, Patna.
6. The Assistant Commissioner of State Taxes, Patliputra Circle, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brisketu Sharan Pandey, Advocate
Mr. Madan Kumar, Advocate

For the State : Mr. Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)



Date : 19-08-2025

Heard Mr. Brisketu Sharan Pandey, learned counsel for the petitioner and Mr. Vivek Prasad, learned GP-7 for the State.

2. Pursuant to the order dated 18.06.2025 passed by this Court, the respondent authority has filed a counter affidavit. Paragraph 8 of the counter affidavit has been placed before this Court by learned GP-7.

3. Paragraph 8 of the counter affidavit reads as hereunder :-

“8. That it is humbly submitted that in compliance of the order of Hon'ble Court, the respondent adjudicating authority has cross verified the claims of the recipients of goods who have claimed in the certificates (annexed to the writ petition) to have reversed the input tax credit attributable to the goods purportedly returned by them to the petitioner. For verifying the claims, the adjudicating authority examined the returns of the aforesaid recipients, which (returns) are available on GST portal. But the returns filed by the recipients prove that the claims are false except in the case of M/S A. H. Enterprises and M/S I. I. N. Traders, who have reversed ITC amounting to Rs. 5274/40 and Rs.15409/00 each under CGST and BGST respectively. No input tax credit relatable to the goods purportedly returned by the recipients has been reversed by the remaining 8 recipients who have purportedly furnished the certificates annexed to the writ petition. The respondents are annexing hereto a copy each of the returns in form GSTR-3B (annual summary in cases where annual returns have been filed) filed by the



recipients. A perusal of item no. 4(B) of the returns in form GSTR-3B filed by the recipients shows that the amount of ITC reversed is reflected as ZERO in all the returns except the returns furnished by M/s A.H. Enterprises and M/s I.I.N. Traders. Further, a perusal of GSTR-9 (annual return) filed by the recipients and annexed hereto for ready reference shows that under Table 7(I), total input tax credit (ITC) reversed has been shown as zero. Similarly, a perusal of table no.8(D) of the annual returns filed by the recipients and available on the GST portal also shows that the difference between ITC available to the recipients as per GSTR-2A and the ITC availed by them is a negative figure in most of the cases, which proves that the recipients have availed higher input tax credit in comparison with their ITC eligibility. This substantiates that except M/s A.H. Enterprises and M/s I.I.N. Traders, the recipients have not reversed the input tax credit on purported return of goods to the petitioner by them.”

4. In view of what has transpired in paragraph 8 of the counter affidavit, learned counsel for the petitioner submits that these are the matters of facts which may be adjudicated by the Tribunal, which is the second appellate authority under the CGST/BGST Act and, therefore, he would withdraw this writ application in order to avail his remedy before the Tribunal as and when constituted.

5. Mr. Vivek Prasad, learned GP-7 for the State, has no objection to the petitioner availing the alternative statutory remedy in terms of Section 112 of the CGST/BGST Act.



6. Mr. Brisketu Sharan Pandey, learned counsel for the petitioner however submits that he would require an interim order of stay on the recovery of demand.

7. To this, learned GP-7 has informed this Court that if the petitioner applied before the proper officer for stay on the recovery of demand, the same will be considered automatically upon deposit of 10% of the amount.

8. In the aforesaid view of the matter, we permit the petitioner to withdraw this writ application with liberty to avail its remedy before the Tribunal as and when constituted, within the given period of limitation in accordance with law.

9. This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20/08/2025
Transmission Date	N/A

