

M/s Singh Caterers and Vendors v. Union of India and Others

Case number: Civil Writ Jurisdiction Case No. 3696 of 2023

Citation: 2023(5) eILR(PAT) HC 1555

Decision date: 9 May 2023

GST audit findings, limits of Section 161 rectification, and independent adjudication under Section 73

Court: High Court of Judicature at Patna

Bench: Hon'ble the Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Madhuresh Prasad

Decision stage: Final dismissal of the writ challenge to audit-related proceedings and non-consideration of the asserted rectification request. The legal objection was rejected; underlying tax liability was not determined.

01 Facts of case and issues

Singh Caterers, a partnership firm registered under the Bihar Goods and Services Tax Act, challenged an audit report under Section 65(6) and the non-consideration of its Section 161 rectification application. It argued that the Assessing Officer's subsequent show-cause proceedings could not continue until that application was decided.

The audit concerned 2017–18. A report dated 22 December 2022 was followed by a 23 December clarification notice inviting payment or an explanation with supporting documents. The taxpayer's representative attended hearings with books and records; some discrepancies were dropped. The finalized audit report still left actual turnover for verification by the jurisdictional officer. The issue was whether the requested reconsideration qualified as rectification and justified holding up Section 73 proceedings.

Pinpoint: Court pp. 1–2 and 5–6; physical PDF pp. 2–3 and 6–7. The court-body paragraphs are unnumbered.

02 Discussion by Hon'ble Court

The Court distinguished audit findings from a final determination of tax. Section 65 permits an audit and communication of its findings; detected discrepancies can lead to proceedings under Sections 73 or 74. Those provisions require the proper officer to consider the matter through the prescribed adjudicatory process. The audit report does not itself settle the taxpayer's further liability.

Here, the Section 161 application sought a re-examination of the audit report rather than correction of an error apparent on the face of the record. The Court held that this was outside the permissible rectification exercise. It also found that the Assessing Officer had considered the report, recorded satisfaction on its items in the show-cause notice, and kept open the taxpayer's opportunity to respond. The asserted rectification request therefore did not justify keeping the Section 73 proceedings in abeyance.

Pinpoint: Court pp. 2–6; physical PDF pp. 3–7, especially the two substantive unnumbered paragraphs on court p. 6.

03 Judicial decision and operative relief

The writ petition was dismissed with a reservation: if the Assessing Officer had not completed the proceedings, the taxpayer remained entitled to file objections and seek their consideration. The Court did not quash the audit report or the show-cause notice, order a fresh assessment, or determine any tax, interest or penalty amount.

Pinpoint: Concluding two unnumbered paragraphs, court p. 7; physical PDF p. 8.

04 In favour of

Union of India and the respondent authorities on the Section 161 objection and request to halt Section 73 proceedings; the taxpayer's right to contest an unfinished assessment remained reserved.

Final rejection of the asserted rectification-based legal challenge, with no final merits finding on the audit discrepancies or tax liability. This is not a remand or a direction to allow the rectification application.

Pinpoint: Court pp. 6–7; physical PDF pp. 7–8.

05 AKHB REVIEW POINT

AKHB analysis: Separate an identifiable record error from a request to reconsider turnover, evidence or an audit conclusion. Specify the error and the existing record that demonstrates it when invoking Section 161. Continue to meet the show-cause response requirements unless a competent authority or court grants relief; this judgment did not accept an automatic pause merely because the taxpayer labelled its request “rectification”.

An audit finding remains distinct from a final demand. Preserve reconciliations, books, supporting records and evidence of discrepancies already dropped, and address the proper officer's own stated grounds. The decision does not establish that an audit document can never contain a rectifiable error, that all audit findings are correct, or that all writ challenges to audit proceedings must fail.

Pinpoint: AKHB commentary based on court pp. 2–7, particularly pp. 5–7; Section 161's limited statutory function.

Sources and limitations

Relevant provisions

Bihar Goods and Services Tax Act 2017: Sections 65(1)–(7), 73(1), 73(2), 73(9), 73(10), 74(1), 74(2), 74(9), 74(10) and 161. Sections 73 and 74 appear in the historical statutory discussion; Section 74A is addressed only as a later-law qualification.

Statutory note

Targeted primary-text checks on 13 October 2026: the Bihar Act as enacted, hosted by the GST Council, was checked at physical p. 46 (Section 65), pp. 50–51 (Sections 73 and 74) and p. 92 (Section 161). Section 161 concerns apparent record errors, subject to its time limits and provisos. The judgment does not decide those time limits or exclude every possible rectification of an audit document.

The Court's shorthand description of three- and six-month notice periods must be read with Sections 73(2) and 74(2): those are minimum intervals before the respective statutory deadline for the order, not universal response periods for the taxpayer. No case-specific limitation computation is resolved here.

India Code's official Bihar compilation labelled 2025 was checked through accessible indexed primary text: Section 161 at printed p. 162 and Section 74A at printed p. 96. Section 74A concerns determination for FY 2024–25 onward. Do not carry the judgment's 2023 description of the Sections 73/74 framework mechanically into later periods. Direct downloads of that compilation failed; no comprehensive amendment, commencement-notification or limitation-extension audit is claimed.

Treatment note

Bounded searches on 13 October 2026 used the exact party, CWJC 3696/2023, decision date and rectification issue, with appeal, SLP, review, stay and reversal terms and targeted Supreme Court and Patna High Court domains. No direct appellate reversal, stay or modification of this judgment was verified. This is not a certification that none exists, an exhaustive registry/citator check, or verification of the eventual assessment outcome.

Same-name search results included other GST proceedings and railway-contract/arbitration litigation. They were not treated as later disposition of this writ without an exact docket and impugned-order connection.

Scope of source review

All eight physical pages were fully read and individually visually inspected: physical p. 1 is editorial material; physical pp. 2–8 correspond to the seven court pages. The court body supplies the holdings. The court paragraphs are unnumbered, so pinpoints use court and physical page numbers. Supplementary review was limited to the four identified pages of the 2017 Bihar Act and accessible indexed text for the two identified sections in the 2025 compilation; no full review of those statutory compilations is claimed.

Source notes

The retained original and fresh official copy both contain eight pages and 146,256 bytes. Their SHA-256 hashes differ, but extracted text and rendered pixels match on every page. The retained original bytes remain unchanged. No cryptographic signature validation is claimed.

The reporter citation 2023(5) eILR(PAT) HC 1555 is visible in both directly inspected copies. A cached official-link search heading instead showed HC 1364; this note follows the verified PDF rather than that indexed heading. No neutral citation is stated. The decision date is 9 May 2023; 17 May 2023 is the upload date. The caption and terminal signatures establish the bench and author.

The editorial headnote includes the petitioner's proposition that proceedings should await rectification and cites paragraph numbers not printed in the court body. Neither is adopted as the Court's holding. The audit report, rectification application and show-cause notice were not separately available; their contents are reported only as recorded in the judgment. The 23 December 2022 clarification notice is not silently equated with the undated Annexure-5 show-cause notice.

Access limitations: the India Code direct compilation request timed out and its upload endpoint returned HTTP 502. The original enacted Act was separately obtained from the GST Council with normal TLS verification. No access restriction or certificate warning was bypassed.

Primary source

Source description: Official eILR PDF: one editorial page followed by the complete seven-page court judgment. Fresh official copy matches the retained original in extracted text and rendered pixels on all eight pages.

Official source: [Open source document](#)

Source pages: 8

Judgment author: K. Vinod Chandran, CJ

Outcome type: final audit rectification legal issue dismissal

Additional source

Bihar Goods and Services Tax Act 2017, enacted text hosted by the GST Council

Official source: [Open source document](#)

Pinpoint: Physical p. 46, Section 65; pp. 50–51, Sections 73 and 74; p. 92, Section 161. Targeted text and image review, 13 October 2026.

Bihar Goods and Services Tax Act 2017, India Code official compilation labelled 2025

Official source: [Open source document](#)

Pinpoint: Accessible indexed primary text at printed p. 162, Section 161, and p. 96, Section 74A. Direct binary requests unsuccessful; limited check on 13 October 2026.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official High Court judgment and identified primary sources. No human legal review is claimed.

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Source checked: 13 October 2026

Reserved date: Not stated; oral judgment. The CAV date field is blank.