

Sita Pandey v. State of Bihar and Others

Case number: Civil Writ Jurisdiction Case No. 5407 of 2023

Citation: 2023(8) eILR(PAT) HC 5121

Decision date: 23 August 2023

Premature bank recovery, Section 78 notice safeguards and protection of the then-unavailable Tribunal appeal

Court: High Court of Judicature at Patna

Bench: Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Partha Sarthy

Decision stage: Final allowance of the writ on coercive recovery, with repayment, conditional interest, personal costs and recovery guidelines. No remand; the underlying exemption and tax-demand merits were expressly left to the statutory appellate remedy.

01 Facts of case and issues

Sita Pandey, proprietor of Om Shri Security Service, supplied security and cleaning personnel, including to Government Polytechnic Institutions. The assessment disputed an educational-services exemption; the Court expressly left that issue to the unexhausted statutory appeal.

The assessment of 14 December 2022 demanded ₹73,66,644, including tax, interest and penalty. The first appeal was rejected on 27 March 2023. The next day, the officer issued recovery notices to four banks and recovered ₹69,88,322 after accounting for the first-appeal deposits. The taxpayer had received no prior recovery intimation. The State invoked financial-year closure and approaching bank holidays to justify urgency.

Pinpoint: Paragraphs 3–7 and 9–10, physical pp. 5–8 and 10–11 (judgment pp. 2–5 and 7–8).

02 Discussion by Hon'ble Court

Section 78 ordinarily permits three months from service of an order to pay. Its proviso permits a shorter period for recorded revenue-protection reasons. The Bench held that reasons cannot remain hidden in departmental files: the taxpayer must receive the reasons and the specified shorter payment period. Financial-year closure and brief bank holidays did not justify the recovery.

The then-unconstituted Tribunal and extended appeal limitation were material. Sections 112(8)–(9) connected the then-applicable additional 20% disputed-tax deposit, alongside admitted dues and the first-appeal deposit, with protection against balance recovery.

Following UTI Mutual Fund, the Court prescribed protection during appeal time and pending stay applications, a reasonable opportunity to approach the higher forum, reasoned notice for justified expedited recovery, and reasonable prior notice before withdrawing attached bank funds. It required revenue protection to be balanced with taxpayer hardship.

Pinpoint: Paragraphs 8–19, particularly 9–16, physical pp. 8–19 (judgment pp. 5–16).

03 Judicial decision and operative relief

The writ was allowed with recovery guidelines. From ₹69,88,322 recovered, the authorities were to return the balance after retaining the stated ₹7,56,644 Tribunal-deposit amount, within two weeks of judgment; default attracts 12% annual interest.

If repayment occurred within two weeks and the demand was ultimately confirmed, statutory interest could not be claimed for the period between bank credit to the State and refund. If liability was set aside, the taxpayer could claim interest for the period of deprivation. No fixed rate was prescribed for that latter entitlement.

The officer who issued Annexure-3 was personally directed to pay ₹5,000 costs to the taxpayer, with the receipt filed in the writ within two weeks.

Pinpoint: Paragraphs 19–22, physical pp. 18–21 (judgment pp. 15–18).

04 In favour of

Taxpayer on unlawful coercive recovery, repayment, conditional interest and personal costs; no final victory on exemption or the underlying tax demand.

Final recovery relief without remand. The assessment and first-appellate determination were not quashed on their tax merits. The repayment order preserved the stated Tribunal-deposit component, rather than directing return of every rupee recovered.

Pinpoint: Paragraphs 4 and 19–22, physical pp. 6 and 18–21 (judgment pp. 3 and 15–18).

05 AKHB REVIEW POINT

AKHB analysis: Preserve service dates, appeal deposits, recovery directions, communicated reasons and bank debit/credit records. Challenge unjustified urgency promptly while independently protecting appeal deadlines. The judgment distinguishes attachment from withdrawal and does not bar every lawful recovery.

Its 20% deposit and Tribunal-unavailability facts are historical. Current Central law provides a different additional deposit and GSTAT now has an operational filing system; verify the applicable State amendment, notified filing window and competent bench. Repayment and personal costs are case-specific directions. Distinguish default interest, conditional statutory-interest protection and the later merits-dependent entitlement to claim interest.

Pinpoint: AKHB commentary based on paragraphs 8–22; current Central-law comparison, later CBIC instruction and bounded treatment checks below.

Sources and limitations

Relevant provisions

Bihar/ Central Goods and Services Tax Acts 2017: Sections 78, 107(6), 108, 109, 112(1), 112(8)–(9) and 172 as discussed. Notification 12/2017 dated 28 June 2017, Entry 66(b)(iii), appears only as background to the undecided exemption claim. Section 79 is supplementary recovery context, not a separately decided issue in this judgment.

Statutory note

The main judgment reproduces BGST Section 78 and explains the then-operative Section 112 deposit/stay scheme. The official 8 May 2017 Bihar Gazette, accessed through the GST Council, independently verifies Sections 78–79 and the original Section 112 text. That Gazette is historical, not a current Bihar consolidation. The CBIC 1 January 2022 Central Act compilation confirms the corresponding three-month service-based recovery period, the written-reasons proviso, the then-additional 20% deposit and deemed stay. The Court's notice requirement is its interpretation of the proviso and natural justice; it must not be erased by describing the three-month period as absolute.

For current Central-law comparison only, India Code's CGST Act compilation as at 11 June 2026 was checked on 13 October 2026: Sections 78–79 retain the pertinent recovery framework; Section 112(1) includes the later notified-date alternative; Section 112(8)(b) now requires an additional 10% of disputed tax, capped at ₹20 crore, alongside the Section 107(6) payment and admitted amounts. The 10%/cap substitutions took effect on 1 November 2024; Section 112(9) retains deemed stay for the balance. The penalty-only proviso effective 1 October 2025 is not the factual category decided here. These Central amendments do not by themselves prove identical Bihar commencement or wording. A current Bihar consolidation was located on India Code, but its endpoints timed out/returned 502; no current Bihar amendment verification is claimed.

CBIC Instruction 01/2024-GST, 30 May 2024, paragraphs 1.2–1.3 and 3.1–3.4, subsequently directed Central officers to use expedited recovery exceptionally, on specific recorded revenue-risk reasons supported by credible evidence, with directions to the taxpayer specifying the shorter payment period; it identifies the competent Central officers. It is not a Bihar amendment and does not identify Sita Pandey as its source. The Section 172 removal-of-difficulties notifications are described as the judgment records them; their exact State instruments were not independently retrieved. Neither the educational exemption nor Section 16 ITC eligibility is decided by this recovery judgment.

Treatment note

Checked 13 October 2026 through bounded party-name, case-number, date, review, appeal/SLP, costs and official-domain searches, including sci.gov.in/api.sci.gov.in and Patna High Court. No verified appellate reversal, review order or stay affecting this Sita Pandey judgment was established. Search results are not an exhaustive citator or registry clearance, and compliance with repayment/costs directions was not verified.

Kaushlendra Kumar v. State of Bihar and Others, CWJC 17860/2024, 1 May 2025, paragraphs 16–17, 28–29, expressly cites, reproduces and follows Sita Pandey on recovery. That later case has its own Section 16(5) remand and distinct repayment/interest directions; those are not imported into Sita Pandey. It is supplementary positive treatment, not an appellate affirmation. A National Insurance later-reliance lead and a Rajnish Kumar pleading reference were located, but are not used to establish additional holdings without a separately verified complete official source.

The official GSTAT home and e-filing search-index extracts accessed on the check date describe constituted benches, e-filing and filed appeals; a 30 June 2026 Ministry of Finance PIB release also describes substantial appeal filing. This is narrow evidence that the old universal non-constitution premise cannot be used today. It does not verify availability for a particular litigant, bench, category, deadline, this taxpayer's appeal or every current operational restriction. No filing deadline is advised here.

Scope of source review

All twenty-one physical pages of the main official eILR report fully read and individually inspected: editorial pages 1–3; judgment pages 4–21, corresponding to court pages 1–18. Fresh download: text and raster samples compared on every page. Supplementary scoped review: historical Bihar Gazette physical pages 54–56 and 67–68 (printed pages 192–194 and 205–206) read and visually inspected; historical CBIC Central Act physical pages 114 and 143–145 (printed pages 113 and 142–144) read and visually inspected; CBIC Instruction 01/2024-GST all three scanned pages read and visually inspected. India Code current Central Act pertinent text at physical pages 73–75 and 92–94 checked through web extraction, not a complete 131-page review. Kaushlendra Kumar report: all twenty pages read as extracted text during preliminary screening; identity page 3 and targeted treatment/operative pages 9–10 and 18–20 individually visually inspected for this supplementary use. The remaining Kaushlendra pages are not claimed as a complete visual legal review. GSTAT portal status and PIB material were checked only for the narrow operational point described above.

Source notes

The eILR number is a reporter citation, not a neutral citation. Both retained and freshly downloaded official PDFs and the retained official index receipt carry 2023(8) eILR(PAT) HC 5121; a search-engine cached rendering of the same endpoint instead displayed 3897. The direct PDF citation is used, with the discrepancy recorded rather than silently replaced. Caption, running headers and signatures support 23 August 2023; uploading date is 30 August 2023. The caption identifies the Chief Justice by office; the signature identifies K. Vinod Chandran. Three initial pages are reporter-prepared headnotes, not the Court's reasons.

Paragraph 20 states the retained amount and the amount recovered, then directs the balance to be returned; this note preserves those figures without substituting a recomputed refund. Paragraph 20 does not give a fixed rate for the merits-dependent entitlement to claim interest, or a separate retrospective start date for its 12% default direction. No 6% unconditional award is made in this case. Paragraph 21 orders costs against the issuing officer, not merely the State. The two-week receipt direction does not change paragraph 22's final disposal. No bank-credit dates, payment-compliance finding, appeal filing or final exemption determination is inferred.

The source quotes Mohinder Singh Gill and UTI Mutual Fund; their propositions are reported as the Patna Bench's reliance, without claiming independent full review of those judgments or resolving different paragraph-numbering conventions. Original and fresh main PDFs differ in cryptographic hash and modification-date metadata, but all twenty-one page texts and raster samples match. Cryptographic signature validation was not performed.

Primary source

Source description: Complete official eILR report: three editorial-headnote pages followed by the eighteen-page judgment. Retained original preserved; fresh official download matches the text and rendered image of every page.

Official source: [Open source document](#)

Source pages: 21

Judgment author: K. Vinod Chandran, Chief Justice

Outcome type: final high court recovery relief

Additional source

Bihar Goods and Services Tax Act 2017, official Gazette of 8 May 2017

Official source: [Open source document](#)

Pinpoint: Physical pp. 54–56 and 67–68, printed pp. 192–194 and 205–206: Sections 78–79 and original Section 112. Historical text; not a current consolidation.

CGST Act, official CBIC compilation as at 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical pp. 114 and 143–145: Sections 78 and 112, including historical additional 20% deposit and deemed stay. Targeted historical Central-law comparison.

CGST Act, India Code compilation as at 11 June 2026

Official source: [Open source document](#)

Pinpoint: Pertinent text at physical pp. 73–75 and 92–94: Sections 78–79 and 112; current additional 10% deposit, amendment footnotes and deemed stay. Web extraction checked 13 October 2026; Central law only.

CBIC Instruction 01/2024-GST, 30 May 2024: early recovery guidelines

Official source: [Open source document](#)

Pinpoint: All three pages; paragraphs 1.2–1.3 and 3.1–3.4. Central-administration instruction, not an amendment or proof of identical Bihar procedure.

Kaushlendra Kumar v. State of Bihar and Others, CWJC 17860/2024, 1 May 2025

Official source: [Open source document](#)

Pinpoint: Paragraphs 16–17 and 28–29, physical pp. 9–10 and 17–19, expressly rely on Sita Pandey. Identity at physical p. 3. Targeted supplementary treatment review.

GSTAT official home and services

Official source: [Open source document](#)

Pinpoint: Official search-index extract checked 13 October 2026 describes constituted Tribunal, benches and e-filing; narrow operational check only, not case/deadline clearance.

Ministry of Finance PIB release, 30 June 2026, on GSTAT appeal filing

Official source: [Open source document](#)

Pinpoint: Official release records substantial filed appeals. Used only to corroborate operational filing, not to give a current or taxpayer-specific deadline.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official 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