IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10690 of 2012

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M/S Advantage Media Consultants Pvt. Ltd. Through Its Managing Director Khurshid Ahmed Son Of Late Sri Abdul Majeed Resident Of 401 B, Sukirti Apartment, S.P. Verma Road, P.S.- Kotwali, District- Patna

.... Petitioner/s

Versus

The Union Of India Through The Commissioner, Central Excise, Patna 2nd Floor Central Revenue Building (Annexe), Birchand Patel Path, Patna
2. The Superintendent, Service Tax, Bankipur Range- 1, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10693 of 2012

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M/S Advantage Media Consultants Pvt. Ltd. Through Its Managing Director Khurshid Ahmed Son Of Late Sri Abdul Majeed Resident Of 401 B, Sukirti Apartment, S.P. Verma Road, P.S.- Kotwali, District- Patna

.... Petitioner/s

Versus

1. The Union Of India Through The Commissioner, Central Excise, Patna 2nd Floor Central Revenue Building (Annexe), Birchand Patel Path, Patna
2. The Superintendent, Service Tax, Bankipur Range- 1, Patna

.... Respondent/s

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Appearance :
(In CWJC No. 10690 of 2012)
For the Petitioner/s : Mr. PRAKASH SAHAY
For the Respondent/s : Mrs. Nivedita Nirvikar
Mrs. ARCHANA SINHA @ ARCHANA S.
(In CWJC No. 10693 of 2012)
For the Petitioner/s : Mr. PRAKASH SAHAY
For the Respondent/s : Mrs. Nivedita Nirvikar
Mrs. ARCHANA SINHA @ ARCHANA S.

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)
Date: 05-02-2015

Learned counsel for the Central Excise Department submits that similar matter filed by the petitioner in C.W.J.C. No.10697 of 2012 has already been rejected on the ground of availability of the statutory alternative remedy by order dated 24.1.2013.

Learned counsel for the petitioners, on the other hand, submits that the issue has already been settled by different Benches of the Central Customs, Excise and Service Tax Appellate Tribunal referring to a decision in the case of P. Gautam & Co. vs. Commissioner of Service Tax, Ahmedabad: 2011 (24) S.T.R. 447 (Tri.-Ahmd.).

It is submitted that the authorities of the Central Excise Department have been repeatedly issuing notices despite the matter having been settled by the Tribunal without even challenging the order of the Tribunal before the higher forum.

In our view, any such decision of the Tribunal would be binding upon the authorities so far as any point of law is settled therein subject to the right to challenge such decision before the higher forum.

However, considering the other fact that the petitioners have approached this Court against the notices issued by the service tax authorities, we consider it appropriate that the issue of fact and law may be raised more appropriately by the petitioners before the authorities by filing their show-cause/reply to the notice.

Both the writ applications are, accordingly, disposed of with the aforesaid directions and observations.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Anjana Mishra, J)

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