IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7607 of 2014

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Sudhir Kumar Gupta son of Late Onkar Dutta resident of the Mohalla - Purani Godown, Mir Safayat Ali Road, P.S. Kotwali Town at District - Gaya.

.... Petitioner/s

Versus

1. The Gaya Municipal Corporation, Gaya through its Municipal Commissioner
2. The Municipal Commissioner, Gaya, Municipal Corporation at Gaya
3. The Revenue Officer, Gaya Municipal Corporation at Gaya.
4. The Administrator, Gaya Municipal Corporation at Gaya.
5. The Deputy Administration, Gaya Municipal Corporation at Gaya.

.... Respondent/s

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Appearance:
For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 04-09-2015 Heard Mr. Shailesh Kumar for the petitioner and Mr. Ravindra Kumar Priyadarshi for the Municipal Corporation.

The grievance of the petitioner is that vide order passed in CWJC No. 2900 of 1991 the authorities of the Gaya Municipal Corporation were directed to adjust the tax deposited by the petitioner and if any amount was found recoverable, to issue notice for its realization.

It is the case of the petitioner that no demand was raised and it is after 13 years that the impugned demand placed at Annexure-4 was issued on 20.3.2014 which also accompanies interest. Learned counsel submits that there was no occasion for imposition of interest for any such occasion would only arise if the petitioner defaults in payment of holding tax and since no demand was raised by the Corporation in the light of the order passed in CWJC No. 2900 of 1991 that there could be no default on the part of the petitioner to invite interest.

A counter affidavit has been filed and with reference thereto as well as provisions of Section 141 of the Bihar Municipal Act (hereinafter referred to as 'the Act') it is submitted by Mr. Rabindra Kumar Priyadarshi that the petitioner has his remedy by way of a review application before the Municipal Commissioner who shall examine the grievance of the petitioner. He submits that without exhausting the remedy so available to the petitioner that he has moved this Court directly.

Having heard learned counsel for the parties and taking note of the statutory provisions underlying Section 141 of 'the Act' the writ petition is disposed of with liberty to the petitioner to exhaust the remedy of review so available to him under Section 141 of the Act and it goes without saying that if any such application for review is filed by the petitioner the same would be considered and disposed of in accordance with law by the Municipal Commissioner after giving opportunity of hearing to the petitioner. The petitioner shall be at liberty to raise all issues as raised herein and which shall be considered by the Municipal Commissioner while disposing of the matter.

Since the matter is old hence an expeditious disposal preferably within three months of receipt / production of a copy of this order would be appreciated.

(Jyoti Saran, J)

S.Sb/-

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