IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5919 of 2016

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1. 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. S.M.Asharaf, Adv.
Mr. Ajay Kumar Sinha, Adv.

For the Gaya Municipality: Mr. Rabindra Kumar Priyadarshi, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 04-05-2016

Heard Mr. S.M. Ashraf, learned counsel for the petitioner and Mr. Rabindra Kumar Priyadarshi, learned counsel for the Gaya Municipal Corporation who also filed counter affidavit as per the impugned demand.

The petitioner seeks to question the demand raised by the Corporation vide Annexure-5 series which is to the tune of Rs. 2,14,768/- and is inclusive of the holding tax for the period 1997 to 2016 as well as the interest accrued thereon on account of failure of the petitioner to deposit the same within the prescribed time and for which the petitioner seeks to rely upon the judgment and order of this

Court passed in C.W.J.C.No.2900 of 1991. According to the petitioner since it is the respondents who failed to raise any demand since after the order passed by the writ Court hence the petitioners cannot be held responsible nor can be saddled with the interest. On the other hand it is the argument of Mr. Priyadarshi appearing for the Corporation that the order of the writ Court can at best explain the delay for the period ending 1996 but not thereafter since as per the order of the writ Court the petitioner was to deposit the tax as per the general assessment and which obligation was not carried out by the petitioner

I have heard learned counsel for the parties and perused the judgment and order of this Court in C.W.J.C.No.2900 of 1991 and as rightly canvassed by Mr. Priyadarshi the order would govern the assessment only until 1996 and whereafter the petitioner was required to deposit the holding tax as per the general assessment with effect from January, 1997 but despite the order, the petitioner did not deposit a single farthing. In my opinion, the assessment present at Annexure-5 series as well as the conclusion drawn by the Municipal Commissioner, Gaya Municipal Corporation to reject the plea of the petitioner for waiver of the interest does not suffer from any infirmity since the default is confirmed. Even when this Court had observed that the holding tax for the period post January 1997 would be governed by the general assessment yet the petitioner did not choose to deposit the tax as per the general assessment which was quantified at Rs.4684 calculated @ 9% of the value of the holdings in question.

Faced with the situation Mr. Ashraf learned counsel for the petitioner made a prayer that liberty be granted to the petitioner to deposit the total holding tax calculated by the Municipal authorities for the period ending 2015-16 present at Annexure-5 vide notice bearing No.28 dated 23.7.2015 to the tune of Rs. 2,14,768/- which is inclusive of interest, in reasonable instalments. Mr. Ashraf learned counsel also very fairly gave an undertaking that the petitioner would make payment of 50% of the said amount i.e. 1,08,000/- by 5th of June, 2016 and the balance amount remaining i.e. 1,06,768/- would be paid in six equal monthly instalments @ Rs. 18000/- per month with effect from July, 2016 and would be deposited by the end of the first week of each month.

I think, the prayer is reasonable and needs to be accepted.

In the circumstances, this writ petition is disposed of with the direction to the petitioner to deposit Rs. 1,08,000/- which is more than 50% of the assessed tax amount and interest present at Annexure-5 by 5.6.2016 and the balance of the holding tax so calculated along with interest would be paid by him as per his undertaking in six equal monthly instalments at the rate of Rs.18000/- per month with effect from July 2016 to be deposited by the end of the first week of each month with the balance remaining in the 6th month. Any default by the petitioner on his undertaking would vest jurisdiction in the municipality to proceed for recovery in accordance with law.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.05.2016
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