IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14029 of 2012

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1. Md. Shahzad Son Of Late Abdul Rahman Resident Of Mohalla- Topkhana Bazar, Police Station- Kotwali, District- Munger

.... Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Department Of Urban Development, Government Of Bihar, Patna
3. The District Magistrate, Munger
4. The S.D.O. Sadar, Munger
5. The Chairman, Municipal Corporation, Munger
6. The Municipal Corporation, Munger Through The Town Executive Officer, Munger
7. The Executive Officer, Municipal Corporation, Munger
8. The Tax Collector, Municipal Corporation, Munger

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. ABHINAY RAJ
For the Respondent/s : Mr. MD. N. HODA KHAN SC18

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT
Date: 05-01-2016

Heard Mr. Abhinay Raj for the petitioner and Mr. Ambika Bhagat who has appeared on behalf of the Municipal Corporation, Munger.

Petitioner is an assessee of the respondent Corporation. He is aggrieved by the demand raised against him by the respondent Corporation as contained in Annexure-5 which pertains to the difference of tax payable by the petitioner for the F.Y.-2009-10. According to the petitioner, he is not liable to pay the difference of the enhanced tax in view of a decision of the Corporation taken in the meeting of the Empowered Committee of the Corporation and informed vide office order dated 5.3.2012. It has been submitted that in accordance with the said decision of the Corporation, payment of holding tax shall be applicable from the F.Y.-2011-12 and not from 2009-10.

Earlier to this, the petitioner had filed a class action vide C.W.J.C. No. 10223 of 2012 which was disposed of by proceeding dated 24.5.2012 (Annexure-6) observing as under:-

> "It goes without saying that only the tax could be charged from the date it has been made applicable. If any person has any individual grievance, he can take resort to available under law."

In the light of the liberty granted under the said order, the present writ petition has been filed raising the grievance against the demand notice (Annexure-5).

Mr. Bhagat appearing for the respondent Corporation states that the petitioner has a remedy available in law by filing an application seeking review of the assessment order or the demand notice as contained in Annexure-5. He has relied in this regard on Section 141 of the Bihar Municipal Act (for short 'the Act') which provides for filing of an application for review before the Chief Municipal Officer or the Chief Executive Officer of the Corporation against the demand notice or assessment or valuation.

Prima facie, it appears to this Court that in the light of the resolution/decision of the Empowered Committee of the Corporation which had fructified in an office order (Annexure-2/1) such demand ought not have been raised by the Corporation.

Considering the above, this Court disposes of the application by permitting the petitioner to raise an objection before the appropriate/competent authority of the Corporation invoking provisions contained in Section 141 of the Act. If any such application is filed within three weeks from today, the concerned respondent/authority shall examine the same and take appropriate decision thereon which shall be communicated to the petitioner within a maximum period of four weeks therefrom. Until the decision on the proposed application of the petitioner is taken by the appropriate/competent authority of the Corporation, the respondent is restrained from taking any coercive step for realization of the amount of tax as contained in Annexure-5.

(Kishore Kumar Mandal, J)

Pankaj/-

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