IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17958 of 2016

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Shapoorji Paloonji & Company Pvt. Ltd., a company incorporated under the Companies Act, 1956 having its Corporate office at S.P. Centre, 41/44 Minoo Desai Marg, P.O.+P.S. Colaba, Mumbai-400005 (Maharashtra) and Branch office at Dr. Kalam Agricultural College Project, Village- Arra Bari, P.O. Raipur, P.S. Raipur, District- Kishanganj through its Additional General Manager, Pradip Kumar Ghosh, son of Sri Amiya Kumar Ghosh, resident of Deodar Place, Garia Station Road, P.O. Garia, P.S. Sonepur, Kolkata- 700084.

... ... Petitioner/s

Versus

1. Commissioner of Income Tax (TDS), having its office at Central Revenue Building, Beerchand Patel Path, P.O. GPO, P.S. Kotwali, District- Patna
2. Income Tax Officer (TDS), Ward-Begusarai, Bihar
3. Dy. General Manager, Bihar State Building Construction Corporation Ltd. C/o- Baldau Prasad Keshri, Mayakunj, Near Guddu Pokhar, Purnea.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate
Mrs. Manju Jha, Advocate
Mr. Sadashiv Tiwari, Advocate

For the Respondent/s : Mrs. Archana Sinha, Standing Counsel
Mr. Alok Kumar, Advocate
Mr. Sanjeev Kumar, Advocate
Mr. Aditya Prakash Sahay, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-01-2018

Challenging the notice Annexure-A-3 and A-2 issued by the competent authority raising a demand with regard to deduction of tax at source in the execution of the contract entered into between the petitioner and the Bihar State Building Construction Corporation Ltd. C.W.J.C. No. 17958 of 2016 has been filed by the contractor Shapoorji Paloonji & Company Pvt.

Ltd.

Having heard learned counsel for the parties, we find that primarily it is the case of the petitioner before us that the petitioner is an assessee before the TDS Circle 2(2), Mumbai and with regard to the contract in question tax at the rate of 0.5% has already been made by the Building Corporation and deposited with the Income Tax authorities at Mumbai, as is evident from the certificate issued by the Assessing Authority at Mumbai vide Annexure-1.

It is contended that once for the same work and for the same financial year tax has been deducted at Mumbai, further demand by the authorities at Patna is unsustainable.

However, it is the case of the department now before us that the tax has to be deducted at the rate of 2% and not at the rate of 0.5% and, therefore, the demand notices have been issued.

Petitioner refutes the aforesaid and submits that the tax has been correctly deducted and nothing further remains to be paid.

That being so, the petitioner should point out all these facts along with relevant statutory provisions and circulars applicable to the Assessing Authority, and thereafter it would for the Assessing Authority to take note of the return filed by the petitioner for the relevant year and pass an appropriate order with regard to the demand made.

Accordingly, we grant liberty to the petitioner to raise all the objections with regard to the demand contained in Annexure-A-2 and A-3 afresh before the Assessing Officer. The Assessing Officer shall consider objection of the petitioner, take note of the grievance and thereafter pass an appropriate order deciding the objection of the petitioner and only thereafter proceed to effect the deduction in accordance with law.

With the aforesaid, the writ petition stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.01.2018
Transmission Date	