IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9741 of 2018

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Jyotindra Prasad Singh, a proprietary concern having its office At & P.O. Keshwear, Via Ulao District Begyusarai through its authorized signatory Narendra Kumar singh son of Shri. Ram Chandra Singh resident of village & P.O. Keshawe P.S. Barauni, District- Begusarai.

... ... Petitioner/s

Versus

1. Commissioner of Central G S T & Central Excise, Patna II Commissionrate having its office at central Revenue Building, Bir Chand Patel Marg Patna.
2. Joint commissioner of Central Excise & Service Tax, Patna having its office at Central Revenue Building, Biar Chand Patel Marg Patna.
3. Asst. Commissioner of Central GST & CX Begusarai having its office at 2nd Floor, Power House Road, Begusarai.
4. Superintendent, Central Excise and Service Tax Range, Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate Mr. Sadashiv Tiwari, Advocate
For the Respondent/s	:	Mr. Satya Prakash Tripathy Sr. SC GST & Central Excise

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 21-06-2018 Challenging assessment order passed vide Annexure-6 on 26.08.2016 in the matter of assessment of service tax on the petitioner and imposing a liability along with penalty of Rs.32,36,120/-, this writ petition has been filed by the petitioner.

Even though the petitioner has come out with a case that notices were not received and they have filed documents showing deposit of tax vide Annexure -2 series and in spite thereof without considering the same, the tax liability has been worked out, learned counsel for the revenue raises a preliminary objection to say that the order has been passed after due notice to the petitioner and when the petitioner did not appear, ex parte order was passed.

However, having heard learned counsel for the parties and going through the documents available on record, particularly the documents, Annexure-2 series, *prima facie*, it is seen that a sum of Rs.29,43,729/- as service tax was deposited by the petitioner on various occasions.

Be that as it may, as a remedy of appeal is available to the petitioner, we deem it appropriate to direct the petitioner to file an appeal before the competent authority within a period of 30 days from today and on the same being filed, the appellate authority shall proceed to decide the appeal in accordance with law. Considering the fact that prima facie, there are materials available on record to show that the petitioner has deposited a sum of Rs.29,43,729/- against the demand for Rs.32,36,120/-, we direct that pre-condition deposit for filing of the appeal shall be dispensed with and shall not be insisted in the present case.

In the meanwhile, all coercive steps initiated against the petitioner shall be kept in abeyance till the consideration of the stay petition filed by the petitioner by the appellate authority.

With the aforesaid, the petition stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sunil/-

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