IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16 of 2019

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Micro Info Solutions Private Limited, Sethia Compound, 5, Main Road, Ranchi, Jharkhand through its Branch Manager, Sri Santosh Kumar Karn, S/o Late Raghwendra Lal Das, Branch Office at Charkothia "D", besides Saraswati Apartment,Ground Floor, S.P. Verma Road, Patna- 800001, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner of Commercial Taxes, Vikash Bhavan, Bailey Road, Patna.
2. The Additional Commissioner, Commercial Taxes, Vikas Bhavan, Bailey Road, Patna.
3. The Deputy Commissioner, Commercial Taxes, Vikas Bhavan, Bailey Road, Patna
4. The Assistant Commissioner, Commercial Taxes, Vikas Bhavan, Bailey Road, Patna
5. The Commercial Taxes Officer, Commercial Taxes, Vikas Bhavan, Bailey Road, Patna
6. The State Transport Commissioner, Transport Department, Vishwesaraiya Bhawan, Bailey Road, Patna-800015

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anshuman Singh, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 30-01-2019

Heard Mr. Anshuman Singh, learned counsel appearing on behalf of the petitioner and Mr. Vikash Kumar, learned Standing Counsel No.11 for the State.

In the nature of the order that we propose to pass, we do not intend to enter into the merits of the case. Suffice it to say that the petitioner feeling aggrieved by an order passed by the Commercial Taxes Officer in purported exercise vested under Section 129(3) of the Central Goods and Services Tax Act, 2017, (hereinafter referred to as 'the Act') moved this Court to question the order on grounds that it is *ex-parte* and without opportunity of hearing. It is opposing the prayer that Mr. Vikash Kumar, learned Standing Counsel No.11 invited the attention of this Court to the appellate remedy available to the petitioner under Section 107 of 'the Act', but since the order was being questioned on grounds of violation of principles of natural justice and denial of reasonable opportunity to the petitioner, of defending the allegations that this Court directed Mr. Vikash Kumar to produce the original records of the proceedings, which has since been reproduced and demonstrate that consequent upon the detention made by the respondent-authorities under Section 129 of 'the Act' that a proceeding was registered and the representative of the petitioner Mr. Santosh Kumar Karn not only in participated in the proceedings but is also the recipient of the notice issued in this connection. The records amply demonstrate the participation of the petitioner's representative and the order impugned was passed pursuant thereto.

In such view of the matter, we are persuaded to uphold the preliminary objection raised by Mr. Vikash Kumar, learned Standing Counsel No.11, on the plea of alternative remedy available under Section 107 of 'the Act', but keeping in view the limitation so prescribed thereunder, we grant liberty to the petitioner to take recourse to the appellate remedy within 30 days from today and it goes without saying that if the petitioner files any appeal within 30 days from today, with an application for condonation of delay, the appellate authority shall consider and dispose of the same on its own merits and with an opportunity of hearing to the petitioner without either being prejudiced by the order passed hereunder or taking note of the delay whatsoever. It goes without saying that the petitioner shall be at liberty to raise all issues raised hereunder, together with those which the petitioner seeks to raise during the appellate proceeding. It again goes without saying that the appellate authority will dispose of the appeal in accordance with law expeditiously and preferably within three months of its filing.

Let the records produced by Mr. Vikash Kumar, learned Standing Counsel No.11 be returned.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Shailendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.02.2019
Transmission Date	N/A