

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2454 of 2019

1. M/s Surat dreams having its Principal place of Business at Shop No. 1055, Second Floor, Universal Textile Market, Kamela Darwaja, Salebatpura, Ring Road, Surat- 395002
2. Vimal Hasmukhlal Gandhi@ Gandhi Vimal Kumar Hasmukhlal S/o Shri Hasmukhlal Ratilal Ganhi C/o D-702, Florence, Vesu- Abha Road, Vesu, Abhva, Surat, Gujrat- 395007, Carrying on business as partner of M/S Surat Dreams, having its Principle place of business at Shop No. 1055, Second Floor, Universal Textile Market, Kamela Darweja Salebatpura, Ring road, Surat- 395 002

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry of Finance, Department of Revenue, Govt. of India, having its office at Central Secretariat, North Block, New Delhi- 110 001
2. Goods and Services Tax Network through its Chairman, East Wing, 4th Floor, Ward Mark-I, Aerocity, New Delhi-110 037
3. The Central Board of Excise of Customs (Formerly Central Board of Direct Taxes and Customs), Ministry of Finance, Customs and Central Excise/CGST Department, Govt. Of India, having its office at North Block, New Delhi- 110001
4. The Nodal Officer, CGST and Central Excise, Vikas Bhawan, Bailey Road, Patna- 800001 Bihar
5. The Commissioner, State Goods and Services Tax, Vikas Bhawan, Bailey Road, Patna 800001
6. The State of Bihar through Bihar Commercial Taxes Department,

... .. Respondent/s

Appearance :

For the Petitioner/s :	Mr. Punit Siddharth
For the Respondent/s :	Mr. Vikash Kumar SC11
For Central Excise Dept :	Mr. S.D. Sanjay, Addl. Sol. Gen.
	Mr. Alok Kumar Agrawal, Standing Counsel

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 25-03-2019

Heard Mr. Punit Siddharth, learned counsel
appearing for the petitioner, Mr. Vikas Kumar, learned Standing



Counsel No. 11 appearing for the State and Mr. Alok Kumar Agrawal, learned counsel appearing for the Excise Department.

The petitioner through this writ petition has prayed for the following reliefs :

“ A) Writ in the nature of mandamus or any other appropriate writ/s, order/s, direction/s to the respondents for :

- 1) Issuing the final Certificate of Registration in FORM GST REG -06.
- 2) Activation of and access to the Common GST Portal alongwith all the necessary facilities including allotment of user ID and password.
- 3) Allowing the petitioners to claim and utilize input tax credit of Rs. 26,44,874/- on account of various services and goods utilized for the purpose of conducting the exhibition at Patna, Bihar in the month of December, 2017 as well as to pay its liability of Integrated Goods and Services Tax amounting to Rs. Rs. 47,72,700/- by utilizing the aforesaid credit amounting to Rs. 26,44,874/-, advance tax amounting to Rs. 2,82,916/- and pay the balance outstanding amounting to Rs. 18,44,910/- without interest and penalty.

B) A writ in the nature of prohibition or any other appropriate writ/s, order/s, direction/s for restraining the respondent from demanding or recovering any interest, late fee, penalty, fine, etc. or subjecting the petitioner to any punishment on account of delayed



submission of GST returns or delayed payment of tax for no fault on their account.

C) Costs of and other incidental expenses to this Application be paid by the Respondents.

D) Any other relief/s to which the petitioners are found entitled to.”

Counter affidavits have been filed on behalf of the respondent Central Excise and Service Tax Department as well as by the Commercial Taxes Department acknowledging the delay but do attribute a part thereof on the petitioner.

It is informed that as of present registration has been granted to the petitioner as a casual tax payer and who has also filed his returns on 28.02.2019. To that extent, the relief of the petitioner has been granted and there is no dispute on the same.

What Mr. Punit Siddharth, learned counsel appearing for the petitioner advocates is that the counter affidavit attributes the delay for grant of registration on the alleged lapse of the petitioner and thus the department may saddle the petitioner with penalty, when the fault lies with the department(s) concerned.

According to learned counsel, it is entirely due to the lapse of the department concerned that the registration of



the petitioner was delayed and which has consequently led to delayed filing of the returns by the petitioner and for which he cannot be subjected to penalty.

We have heard learned counsel for the parties and perused the records. May be the petitioner has a reason for expressing such concern but then undisputedly, as of present, neither there is any such order on record of the proceedings which confirms such attempt by the respondents nor any proceeding has been initiated in this regard. In such admitted circumstances noted, we do not deem it necessary to express our opinion on the issue expressed at this stage but would preserve liberty for the petitioner to contest any such attempt by the concerned department, if any initiated.

With the observations/liberty aforementioned, the writ petition is disposed of.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2019
Transmission Date	NA

