IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11722 of 2019

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1. M/s Laxmi Enterprises, Colony More, Kankarbagh, Lohia Nagar, Patna, Bihar- 800020 through its Proprietor Manoj Kumar, Son of Shri Ramjee Pandey, Aged about 42 years, Male, Resident of A/58, Housing Colony, Lohiya Nagar, Kankarbagh, Opposite Panch Shiv Mandir, Sampatchak, Lohia Nagar, Patna- 800020.

... ... Petitioner/s

Versus

1. Union of India through the Commissioner of Central GST and Central Excise, Patna- I, 3rd Floor, Kendriya Rajaswa Bhawan (Annexe Building), Bir Chand Patel Path, Patna- 800001.
2. The Deputy Commissioner of Central GST and Central Excise, Patna Central Division, Ground Floor, Chandpura Palace, Opposite Dadi Maa Temple, Bank Road, West Gandhi Maidan, Patna- 800001.
3. The Superintendent, Central GST and Central Excise, Kankarbagh Range, Ground Floor, Chandpura Palace, Opposite Dadi Maa Temple, Bank Road, West Gandhi Maidan, Patna- 800001.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Amit Pandey, Adv.
For the Respondent/s : Mr. S.D.Sanjay, Addl. SG
Mr. Alok Kumar Agarwal, SC

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 08-07-2019

Heard Mr. Amit Pandey, learned counsel appearing for the petitioner and Mr. S.D. Sanjay, learned Additional Solicitor General who appears with Mr. Alok Kumar Agarwal for the Central GST and Central Excise department, Patna.

The petitioner is aggrieved by the demand cum show cause notice dated 01.04.2019 issued under the signature of the

Deputy Commissioner, Central GST and Central Excise, Patna (Central) Division, Patna raising a demand of Rs.10,98,436/- payable by the petitioner which assessment is founded on an exercise made under section 72 of the Finance Act, 1994 i.e. by way of best judgment assessment.

As to why the exercise of power is resting on best judgment assessment would be confirmed from the explanation given in the order and which has persuaded the Assessing Authority to proceed likewise, however, since the demand in question is only a primafacie impression at the hands of the department and the petitioner has been allowed opportunity to rebut the same, all issues as raised in this writ petition can well be raised before the Assessing Authority including the foundation for such initiation.

Since the time allowed in the demand cum show cause notice to respond to the same has long expired, we allow the petitioner to file his reply to the demand cum show cause notice within four weeks from today i.e. by 5th of August, 2019 when the petitioner would appear before the Deputy Commissioner, CGST, Patna (Central) Division, Patna along with his response and whereupon the matter would be disposed of in accordance with law by the said authority after opportunity of hearing to the petitioner or his representative.

With the observation above, we dispose of this writ petition.

We would make it clear that we have not expressed any opinion on the merits of the case and the parties would be at liberty to support their stand before the statutory authority.

(Jyoti Saran, J)

(Partha Sarthy, J)

skpathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2019
Transmission Date	NA