IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11634 of 2021

Indrajeet Singh @ Indrajit son of late Rajeshwar Pd Singh resident of village Panapur Gaurahi, Madhaul, Hajipur Dist. Vaishali.

... ... Petitioner/s

Versus

1. Goods and Service Tax Council established under Article 297 A of Constitution of India, through Assistant Commissioner of State Tax, Muzaffarpur West, Tirhut, Bihar.
2. Commissioner of Central Tax, goods and Service Tax Council, Union of India, New Delhi.
3. Joint Commissioner of State Tax, West Circle, Muzaffarpur, Bihar.
4. Assistant Commissioner of State Tax, Muzaffarpur west, Tirhut, Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Neeraj Kumar, Advocate
		Mr. Prabhat Ranjan Singh, Advocate
For the Uoi	:	Mr.Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. S.C., CGST & CX
For the State	:	Mr. Vivek Prasad, GP-7

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-07-2021

Petitioner has prayed for the following relief(s):

> "That, the impugned order of demand dt. 05.03.2020 unilaterally passed against the petitioner U/s 73 of the GST Act by respondent No.4 be quashed and set aside as it has been passed without providing an opportunity of show cause and also without

providing an opportunity of hearing to the petitioner, being an authority of law Respondents cannot pass order in such manner.

II. That, petitioner further prays for quashing and setting aside the consequential order of freezing bank accounts of petitioner's firm Ganpati Agro Agency vide Current A/C No. 300305010992378, running in Branch of Punjab National Bank, Muzaffarpur.

III. That, for any other relief(s) for which petitioner is found entitled on the facts of this case and also in the eye of law."

The instant petition has been filed for quashing of the impugned order dated 05.03.2020 passed by Respondent No.4 namely Assistant Commissioner of State Tax, Muzaffarpur West, Tirhut, Bihar. The said order was passed *ex parte.*

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Assessing Authority for deciding the case afresh. Also, the case shall be decided on merits. Also, during pendency of the case, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

However, having heard learned counsel for the parties as also perused the record made available, we are of the considered view that this Court, notwithstanding the statutory remedy, is not precluded from interfering where, *ex facie*, we form an opinion that the order is bad in law. This we say so, for two reasons- (a) violation of principles of natural justice, i.e. Fair opportunity of hearing. No sufficient time was afforded to the petitioner to represent his case; (b) order passed *ex parte* in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order, *ex parte* in nature, passed in violation of the principles of natural justice, entails civil consequences. As such, on this short ground alone, we dispose of the present writ petition in the following mutually agreeable terms:

(a) We quash and set aside the impugned order dated 05.03.2020 passed by Respondent No.4 namely Assistant Commissioner of State Tax, Muzaffarpur West, Tirhut, Bihar;

(b) We accept the statement of the petitioner that ten per cent of the total amount, being condition prerequisite for hearing of the appeal, already stands deposited. If that were so, well and good. However, if the amount is not deposited for whatever reason(s), same shall be done before the next date;

(c) Further the petitioner undertakes to additionally deposit ten per cent of the amount of the demand raised before the Assessing Officer. This shall be done within four weeks.

(d) This deposit shall be without prejudice to the respective rights and contention of the parties and subject to the order passed by the Assessing Officer. However, if it is ultimately found that the petitioner's deposit is in excess, the same shall be refunded within two months from the date of passing of the order;

(e) We also direct for de-freezing/de-attaching of the bank account(s) of the writ-petitioner, if attached in reference to the proceedings, subject matter of present petition. This shall be done immediately.

(f) Petitioner undertakes to appear before the Assessing Authority on 16th of August, 2021 at 10:30 A.M., if possible through digital mode;

(g) The Assessing Authority shall decide the case on merits after complying with the principles of natural justice;

(h) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(i) During pendency of the case, no coercive steps shall be taken against the petitioner.

(j) The Assessing Authority shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

(k) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(l) The Assessing Authority shall decide the case on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

(m) The Assessing Authority shall pass a speaking order assigning reasons, copy whereof shall be supplied to the parties;

(n) Liberty reserved to the petitioner to challenge the order, if required and desired;

(o) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(p) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(q) We have not expressed any opinion on merits and all issues are left open;

(r) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

The instant petition sands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2021
Transmission Date	