IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5517 of 2020

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Sitaram and Sons Gandhi Chowk, Munger, through its proprietor namely Pradip Kumar, aged about 42 years, Male, Son of late, Parmeshwar Prasad, Resident of Guljar Pokhar, P.S.- Kotwali, Distt.- Munger

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikash Bhawan, Patna
2. The Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikash Bhawan, Patna
3. The Joint Commissioner, of Commercial Taxes/State Tax (Audit) Bhagalpur Division, Bhagalpur
4. The Assistnat Commissioner of Commercial Taxes/State Tax, Circle Munger

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jyoti Ranjan Jha, Advocate
For the Respondent/s : Mr. Vikash Kumar (SC-11)

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

Date : 22-01-2021

Petitioner has prayed for the following relief(s):

> "1.(I) For quashing the Inspection Report dt. 23.10.2019, passed by Assistant Commissioner, State Tax, Munger, holding the same as illegal and malafide and without jurisdiction.
>
> (II) For commanding and directing the respondents, to Set Aside the order dt. 09.1.2020, passed by Assistant Commissioner, of State, Tax, Munger, Bhagalpur, Bihar.
>
> (III) For Setting Aside the show cause notice of demand passed on 3.2.2020 under

section 74 and 50 of BGST Act, 2017 whereby and whereunder demand of Rs. 32,99,994/- has been made, for the tax period Oct 2019-2019, contained in reference no. ZA100220001164T.

(IV) For holding that, assessment made by the Respondents is arbitrary as well as without jurisdiction.

(V) For any other relief(s) for which Petitioner is found entitled in the eye of law."

Having heard learned counsel for the parties, we dispose of the present petition in the following mutually agreeable terms:

(a) petitioner shall appear before the appropriate authority on 22nd of February, 2021 and deposit a sum of Rs. 1,00,000/- (one lac only);

(b) petitioner shall appear before the appropriate authority along with all objections/documents and materials in support of his contentions, in respect to the notice dated 20th of December, 2019, issued by the Superintendent, Munger, Bhagalpur, Bihar (Annexure-6);

(c) the appropriate authority shall decide the matter afresh accounting for all the materials, as per the statutory provisions;

(d) objection with regard to the jurisdictional error, fact and law shall also be dealt with by the appropriate authority.

In view of the above, order dated 9th of January, 2020 passed by the Assistant Commissioner of Sales Taxe, Munger (Annexure-7) as also the subsequent demand notice dated 3rd of February, 2020 (Annexure-11) stand set aside, more so for the reason that the petitioner was not afforded opportunity of hearing which shall cause serious prejudice in as much as imposition of penalty and other consequences.

The present petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

Amrendra/P.K.P/

AFR/NAFR	
CAV DATE	
Uploading Date	23.01.2021
Transmission Date	