IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9047 of 2021

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M/s EFTI Construction a proprietorship firm having it place of business at Dipahi, Chiraiya, Motihari, East Champaran - 845315 through its proprietor namely Dabir Alam male aged about 44 years, son of Md. Waliullah Resident of Dipahi Chiraiya, Motihari, East Champaran- 845315.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Taxes (Appeals) Tirhut Division, Muzaffarpur.
3. The Assistant Commissioner of State Taxes, Motihari Circle, Motihari. (April 2019 to September 2019)

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Alok Kumar Jha, Advocate
For the Respondent/s	:	Mr. Pawan Kumar, AC to AG

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

Date : 07-07-2021

Petitioner has prayed for the following relief(s):-

"a) For issuance of a writ in the nature of certiorari for quashing of the summary of order in form GST DRC-07 dated 03.03.2020 passed and issued by the respondent number 3 under section 74(1) of the Bihar Goods and Services Tax Act, 2017 (hereinafter referred to as the "Bihar act 2017" for short);

b) For further quashing of the impugned order passed by the respondent number 2 issued in form GST appeal-02 dated 28.12.2020 whereby the appeal preferred by the petitioner against the order dated 03003.2020 has been rejected on technical grounds of nonproduction of certified copy of the said order;

c) For holding and declaration that the impugned order dated 03.03.2020 passed by the respondent No. 3 is highly cryptic, nonspeaking and based on complete non-application f mind to the fact that the liability of tax and interest had already been discharged by the petitioner before the impugned order determining such liability was passed on 03.03.2020;

d) For holding and a declaration that once the petitioner had already discharged the liability of tax and interest for the period of April 2019 to June 2019, no repetition of such demand would be made from the petitioner in so far as tax is concerned;

e) For holding and a declaration that once the petitioner had already discharged the liability of interest for the said period, no liability of interest could be repeated vide impugned order dated 03.03.2020.

f) For issuance of a writ or order or direction holding the action of the respondent no. 3 already taken in terms of section 79(1)(c) of the Bihar Act 2017 for recovery of the amount of tax, interest and penalty imposed in terms of the order dated 03.03.2020 being illegal and without jurisdiction as it is not preceded by due compliance of the condition mandated in the proviso to section 78 of the Bihar Act 2017;

g) For issuance of a writ or order or direction restraining the respondent no. 3 from making any coercive recovery of the amount in demand (tax, interest and penalty) as contained in the order dated 03.03.2020 during the pendency of the present writ application:

h) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

After the matter was heard for some time, learned counsel for the petitioner, under instructions, seeks permission to withdraw the present petition reserving liberty to file a fresh petition, on the same and subsequent cause of action, if so required and desired.

Permission granted with liberty as prayed for.

As and when any such petition is filed, the same shall be listed on priority basis.

Instant petition stands dismissed as withdrawn in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	16.07.2021
Transmission Date	