IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11020 of 2021

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Pradeep Kumar Singh Son of Rajeshwar Prasad Singh Resident of Bajitpur Ward No. 4, P.S.- Triveniganj, District- Supaul.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Department of Tax, Bihar, Patna.
3. The Commissioner State Tax Bihar, Patna.
4. The Additional State Tax Commissioner Purnea.
5. The Deputy State tax Commissioner Supaul.
6. The Principal Secretary Bihar Building Construction Department, Bihar, Patna.
7. The Executive Engineer Bihar Building Construction Department, Division, Madhepura.
8. The Managing Director Bihar State Building Construction Corporation Ltd., Bihar, Patna.
9. The Deputy General Manager Bihar State Building Construction Corporation Ltd., Saharsa.
10. The Managing Director Bihar Medical Services and Infrastructure Corporation Ltd. Patna, 4th floor BSBCCL Hospital Road Shashtrinagar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajesh Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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

Date : 22-07-2021

Petitioner has prayed for the following relief(s):

> "(i) For quashing the impugned orders (Annexure-6 series) as contained in memo No.368 and 369 dt. 26.02.2021 passed by the Additional State Tax Commissioner (Appellate Authority), Purnea, whereby and whereunder the appeals of the petitioner have been rejected only on the ground of limitation without considering the period of Covid-19.
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> (ii) Further for a direction to the respondents to defreeze/dehold/unhold the accounts of the petitioner which are being given here in below;
>
> (a) AC No. 11727351500, SBI, Triveniganj in which Home loan EMI is going on.
>
> (b) AC No. 449610100000911, Bank of India, Supaul by which business is running.
>
> (c) AC No. 150102000000073, IDBI, Supaul which current credit account which also for business purpose.
>
> (d) AC No. 458330100000076, Bank of India, Triveniganj Loan Account which for business transaction is going on.
>
> (iii) To grant any other relief (s) for which the petitioner is entitled to get in the eye of law."

The instant petition has been filed for quashing of the impugned orders (Annexure-6 series) as contained in Memo No. 368 and 369 dated 26.02.2021 passed by Respondent No. 4 namely The Additional State Tax Commissioner, Purnea, whereby the appeal of the petitioner has been rejected merely on the grounds of being barred by limitation. The order was ex parte in nature.

In our considered view, the delay stands sufficiently explained on account of COVID restrictions.

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Appellate Authority for deciding the appeal afresh. Also, while considering and deciding the appeal, the ground of delay shall not be taken into account and the appeal shall be decided on merits. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

Having heard learned counsel for the parties as also perused the record made available, we dispose of the present petition in the following mutually agreeable terms:-

(a) We quash and set aside the impugned orders (Annexure-6 series) as contained in Memo No. 368 and 369 dated 26.02.2021 passed by Respondent No. 4 namely The Additional State Tax Commissioner, Purnea**;**

(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, the appeal shall be decided on merits. However, if the amount is not deposited for whatever reason(s), same shall be done before the next date;

(c) 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;

(d) 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.

(e) Petitioner undertakes to appear before the Appellate Authority i.e. The Additional State Tax Commissioner (Appeal), Purnea on 3rd of September, 2021 at 10:30 A.M., if possible through digital mode;

(f) The Appellate Authority shall condone the delay in filing the appeal and decide the appeal on merits after complying with the principles of natural justice;

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

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

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

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

(k) The Appellate Authority shall decide the appeal on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

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

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

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

(o) 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;

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

(q) 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/Sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	