IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11199 of 2021

==

M/s Shiv Kumar Verma S/o- Uma Shankar Prasad R/o- Near Post Office Hilsa, Gainpat Bigha, District- Nalanda.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, State Taxes, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Dy. Commissioner, State Taxes Department, Patna Central Circle, Patna.
4. The Assistant Commissioner, States Taxes, Patna Central Circle, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Akash Chaturvedi, Advocate Mr. Vijay Kumar Singh, Advocate
For the Respondent/s	:	Mr. Kumar Manish, SC 5

==

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

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 26-08-2021

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

1. For issuance of a writ in the nature of certiorari for quashing the assessment order issued under DRC 07 vide order no. ZA10032019290K dated

17.03.2020 passed by the Assistant Commissioner, State Taxes, Patna Central Circle, Patna for the period November, 18 to Feb,19 whereby the assessment year in DRC 07 under Section 74 Bihar GST ACt. 2017 has been passed stating therein that suppression of turn over in the month of November, 18 to February, 19 were filed Nil turn over.

II. For issuance of writ in the nature of declaration holding that the assessment order issue vide respondent State Taxes Department is wholly misconceived arbitrary illegal and without jurisdiction for reason the petitioner being works contractor as admittedly paid the tax in advance to the Rural Works Department which ought to have been transferred to State Taxes Department but the petitioner has been made liable for the same by imposing the huge penalty which is unjustified in the eyes of law.

III. For issuance of writ in the nature of declaration holding that when the petitioner made agreement with Rural Works Department for the work of construction and repair the deduction was done under the Bihar Value Added Tax Act to midst GST act was introduced due to which rate of tax has been increased from 4 % to 12 % which is being recovered from the petitioner instead of Rural Works Department is wholly without jurisdiction.

IV. For issuance of writ in the nature of mandamus directing the respondent Rural Works Department to transfer the amount of taxes which was paid by the petitioner to the State Taxes Department so that the liability of petitioner as imposed by the impugned order by the State Taxes Department to be settled.

V. To any other relief/s to which the petitioner is found entitled to in facts and circumstances of the present case.

Learned counsel jointly pray that the petition be disposed of in terms of the admissions made by the respondents in para-11 of the counter affidavit dated 13th of July, 2021, filed on behalf of respondent No. 2.

Para-11 of the counter affidavit reads as under:

> "11. That it would not be out of place to mention here that the similar issue as has been raised in the

present writ petition has already been decided by the Hon'ble Court in CWJC No. 1452/2019 and the case of this petitioner is well covered under order dated-05.07.2019 passed by the Hon'ble Court in CWJC No. 1452/2019 and its analogous cases."

Leaving all questions open, purely on the basis of admission, we allow the present petition in view of the admissions reproduced supra. We may not be misunderstood to have expressed any opinion on the correctness of the findings returned in the said decision for the petition is disposed off purely on the basis of admission made by the State, and with both the learned counsel seeking disposal in terms thereof.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.09.2021
Transmission Date	