IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14879 of 2021

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M/s B.K. Enterprises, Vivek Lane, Marai Road, Hajipur, District- Vaishali through its partner Binay Kumar Srivastava (Male), aged about 71 years, Son of Sri Janardan Prasad, Resident of Vivek Lane, Marai Road, Mohallah-Pokhra, Town- Hajipur, District- Vaishali, Pin- 844101.

... ... Petitioner/s

Versus

1. The Union of India through the Chief Commissioner, Bihar C.G.S.T. and Central Excise, Patna, Bihar.
2. The Commissioner (Appeals) C.G.S.T. and Central Excise, Central Revenue Building (Annehe) 2nd Floor, Bir Chandra Patel Path, Patna- 800001 (Bihar), District- Patna.
3. The Additional Commissioner, C.G.S.T. and Central Excise, Patna II Commissionerate, 4th Floor, CTTC Building, Sanchar Parishar, Budhha Marg, Patna- 800001, District- Patna.
4. The Assistant Commissioner, C.G.S.T. and Central Excise, Vaishali Division, Dak Bungalow Road, P.S.- Hajipur Town, P.O.- Hajipur-800001, District- Vaishali.
5. The Deputy Central Manager, Bihar State Building Construction Corporation Limited, Project Implementation Unit (P.I.U.), Saran, Kashi Bazar, Chhapra- 841301, District- Saran.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ratna Deep Prasad, Advocate
For the Respondent/s	:	Dr. Krishna Nandan Singh, A.S.G. Mr. Anshuman Singh, Advocate.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-09-2021

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

i) For issuance of a writ in the nature of mandamus or any other appropriate writ/writs, direction/directions, particularly upon the respondents no. 2 and 3 to deduct the taxable amount as service tax levied against work, not done by the petitioner amounting to Rs. 5,32,71,747/- out of total amount Rs. 6,97,90,536/- levied as taxable service tax in view of letter no. 546 dated 20.09.2020, issued by respondent no. 5 clarifying that the said amount Rs. 5,32,71,747/- has been wrongly entered against the period due to in advertence and further, after rectification, the taxable amount or requisite court fee be fixed for hearing in Appeal or before Appellate Tribunal. And

ii) Further for issuance of a writ in the nature of certiorari or any other writ or writs, direction or directions for setting aside the order dated 31/8/2020 passed by the respondent no. 3 , whereby the learned respondent has been pleased to exclude the work done by petitioner for Power Grid Corporation of India Limited from exemption provided to Central Government/State Government in view of Notification 12/2012-service tax dated 17.03.2012 and Notification No. 25/2012-ST dated 20.06.2012 (as amended) by wrongly giving finding that Power Grid Corporation of India Limited is not Government authority or Government Body. And

iii) For setting aside order dated 22/02/2021 passed in Appeal No. 80/Pat/ST/Appeal 2020-21, passed by respondent no. 2, whereby the appeal has been rejected on the sole ground of non-deposit of Pre-deposit court fee without considering that the appellant is not bound to deposit any court fee against the work not done by appellant. And

iv) For commanding the respondents to rectify and reassess the service tax payable by petitioner and in alternate charge pre-deposit court fee against the amount received by petitioner and not against the work, not provided by the petitioner. And

v) For any other Relief/Reliefs as Your Lordship may deem fit and proper in the facts and circumstances of the case."

After the matter was heard for some time, finding the Court not to be in favour of the submission made across the bar, learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to approach the authority concerned for venting out the grievance in accordance with law.

Liberty granted. As and when any such request is made by the petitioner, the same shall be considered and disposed of on its own merit.

The petition stands disposed of as withdrawn with the liberty as prayed for.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	10.09.2021
Transmission Date	