IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4023 of 2021

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Bikash Kumar Singh (Male) aged about 44 years) son of Ramjee Singh having its office at Tilkamanjhi, Tulsinagar, Bhagalpur, Bihar 812001 and at present residing at Quarter No. 58, Tulsinagar bank colony, back side Santa Kunj Apartment, Tilkamanjhi, Bhagalpur, Bihar 812001.

... Petitioner

Versus

1. Commissioner of State Tax, Bihar, Patna.
2. Asst. Commissioner of State Tax, Bhagalpur Circle, Bhagalpur

... Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.V. Pathy, Advocate
		Mrs. Manju Jha, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, S.C. 11

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

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(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 : 24-06-2021

Petitioner has prayed for the following relief(s):

i) the order dated 14.09.2019 (as contained in Annexure -2) passed by the respondent no.2 for the tax period July 2019 falling in the Financial Year 2019 – 20 be quashed.

ii) the notice of demand dated 16.09.2019 (as contained in Annexure – 2) issued by the respondent no.2 for the tax period July 2019 falling in the Financial Year 2019 – 20 be quashed.

iii) the notice dated 02.03.2020 (as contained in Annexure -4) issued by the respondent no.2 attaching the bank account of the petitioner maintained with the State Bank of India, Bhagalpur for recovery of the whole of the amount of tax determined in pursuance of an ex parte order of assessment be quashed.

iv) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

After the matter was heard for some time, Mr. D.V. Pathy, learned counsel appearing on behalf of the petitioner, under instructions, states that petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.

Permission granted.

Shri Vikash Kumar, learned Standing Counsel No. 11, states that if such an appeal is preferred by 26th of July, 2021, the issue of limitation shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

As such, petition stands disposed of in the following mutually agreeable terms:-

(a) Petitioner is permitted to prefer an appeal against the impugned order dated 14.09.2019 passed by Respondent No. 2 namely Asst. Commissioner of State Tax, Bhagalpur Circle, Bhagalpur (Annexure-2) for the tax period July 2019, on or before 26th of July, 2021, if possible, through digital mode.

(b) Petitioner shall deposit ten per cent of the total amount, being condition prerequisite for hearing of the appeal, before the next date. If that were so, the appeal shall be decided on merits by passing a speaking order;

(c) This deposit shall be without prejudice to the respective rights and contention of the parties and subject to the order passed by the Appellate Authority. 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 on 26th of July, 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 an 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) Liberty reserved to the petitioner to challenge the order, if required and desired;

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

(n) 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;

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

(p) 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)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	