IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2693 of 2022

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M/s Prakah Sinha Proprietor Prakash Vigyapan Paper Office Campus Motijheel Muzaffarpur through its sole proprietor Prakash Sinha aged about 49 years, Male, S/o Mahesh Prasad Sinha, R/o Rasulpur Zilani Majhauliya Road, P.S. - Kazi Mohammadpur, District - Muzaffarpur.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Finance, New Delhi.
2. The Secretary, Goods and Services Tax Council, New Delhi.
3. The Central Board of Direct Taxes and Customs, through its Chairman, Department of Revenue, North Block, New Delhi.
4. The Chief Commissioner of Central Taxes, Revenue Building, Patna.
5. The Commissioner of State Taxes, Vikash Bhawan, Patna.
6. The Additional Commissioner State Taxes, Western Block, Tirhut Division (Appeal), Muzaffarpur.
7. The Assistant Commissioner, State Taxes, Western Block, Muzaffarpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar Manoj, Advocate
		Mr. Bijay Kumar Gupta, Advocate
For the Respondent/s	:	Dr. Krishna Nandan Singh, ASG
		Mr. Anshuman Singh, Sr. SC CX & CGST
		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 : 21-02-2022

Heard learned counsel for the parties.

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

i. For quashing and setting aside the Appellate Order bearing Ref No.-ZD1012200185174 dt.-18.12.2020 (Annexure-4) passed by the Respondent no.-6 by which the Appeal bearing ARN# AD100820000725R of Petitioner was rejected on the ground of Non-Submission of the Certified Copy of impugned Order within time as mentioned therein the "Hard copy has not submitted within time" and further declined the hearing of Appeal on merit wrongly and without justification as no speaking order has been passed by the Appellate Authority.

ii. For setting aside the Order dt.-29.01.2020 (DRC-01A) and 8.02.2020(DRC-01)(Annexure-1 series) and further Order Reference no.-ZA100220025594A dt.-25.02.2020 (Annexure-3) passed by Respondent no.-7 by which rejecting the petitioner's claim for input tax credit (ITC) on the sole ground that the return under section-39 of GST Act has been filed beyond 20.10.2019 for the Tax period from April 2018 to March 2019, whereas wrongly mentioned as 2017-18 and it has been learnt that Bank account of petitioner has been attached consequently and further Petitioner seeking direction for de-freezing and de-attaching the Bank Accounts of the petitioner.

iii. For passing any other orders/orders as your lordships may deem fit and proper in the present facts and circumstances of the case.

Petitioner has prayed for quashing of the impugned order dated 18.12.2020 passed by Respondent No. 6, namely the Additional Commissioner State Taxes, Western

Block, Tirhut Division (Appeal) Muzaffarpur in Reference No. ZD1012200185174 (Annexure-4) as also the order dated 29.01.2020 passed by Respondent No. 7 namely the Assistant Commissioner, State Taxes, Western Block, Muzaffarpur in GSTIN- 10ARXPS0896E2ZD and order dated 08.02.2020 (Annexure-1 series) as also the summary of the order in Form GST DRC-07 dated 25.02.2020 passed in Reference No. ZA100220025594A (Annexure-3).

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

Learned counsel for the petitioner states that certified copy of the order passed by the Assessing Officer was placed on record of the appeal at the time when the appeal was pending before the authority.

Having heard learned counsel for the parties; perused the record made available as also in view of the decision rendered by Hon'ble the Apex Court in **Suo Motu Writ Petition (Civil) No. 3 of 2020 [In Re: Cognizance for Extension of Limitation] (Page No. 30)** and the subsequent orders passed, we dispose of the present petition in the following terms:-

(a) We quash and set aside the impugned order dated 18.12.2020 passed by Respondent No. 6, namely the Additional Commissioner State Taxes, Western Block, Tirhut Division (Appeal) Muzaffarpur in Reference No. ZD1012200185174 (Annexure-4);

(b) The appeal is restored to its original file and number;

(c) 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;

(d) 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;

(e) Petitioner undertakes to appear before the Appellate Authority on 8th of March, 2022 at 10:30 A.M., if possible through digital mode;

(f) The Appellate Authority shall 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)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2022
Transmission Date	