

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3475 of 2022

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Vivek Kumar Mittal, Son of Shri Lalit Kumar Mittal, Resident of Flat No. B-302, Om Nirmalya Apartment, Nageshwar Colony, Boring Road, P.O. G.P.O., P.S. Buddha Colony, Patna, Bihar - 800001.

... .. Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax, having its office at Vikas Bhawan Bailey Road, Patna.
2. Asst. Commissioner of State Tax, Patna North, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.D.V.Pathy, Advocate
Ms. Manju Jha, Advocate
For the Respondent/s : Mr.Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-03-2022

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

- i) (the order dated 02.02.2021 (as contained in Annexure -3 series) passed by the respondent no. 2 raising demand of tax and penalty under Section 73 (9) of the BGST Act, 2017 without grant of an opportunity of being heard illegal and without jurisdiction?
- ii) the order dated 02.02.20 (as contained in Annexure -5 series) passed by the respondent no. 2 raising demand of tax and penalty under Section 73 (9) of the BGST Act, 2017 raising demand on account of tax and penalty without taking notice of the fact that the pre-conditions for claim of input tax credit was satisfied and the return was filed by the supplier within the time frame stipulated under Section 16 (4) of the BGST Act and that in view thereof the whole of such demand is illegal and without



- iii) the notice dated 15.02.2022(as contained in Annexure -6) issued by respondent no. 2 attaching his bank account be quashed.
- iv) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

Shri Vivek Prasad, learned G.P.-7, under instructions, states that the statement submitted by the petitioner, annexed as Annexure-5 series, Page 28-89, were perused by the authority and now the amount stands reconciled with the authority satisfied of having received the amount in terms thereof.

Hence, we are of the considered view that the impugned order dated 22.02.2021 (Annexure-3 series) as also consequential order dated 02.02.2021 (Annexure-4 Page 27) needs to be quashed and set aside with the matter being remanded to the Assessing Officer for consideration afresh, in view of the statements made supra and having been satisfied of the correctness of the statement of accounts furnished by the petitioner (Annexure-5 series, Page 28-89).

Consequently, order dated 15.02.2022



(Annexure-6) whereby the petitioner's bank account stands attached, is also quashed and set aside.

As such, we dispose of the present writ petition in the following mutually agreeable terms:

(a) Petitioner undertakes to appear before the Assessing Officer on 21.03.2022 at 10:30 A.M.

(b) The Assessing Officer shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

(c) The Assessing Officer shall decide the case on merits after complying with the principles of natural justice;

(d) Opportunity of hearing shall be afforded to the parties to place on record additional materials, if so required and desired;

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

(f) The Assessing Officer shall decide the case on merits expeditiously, preferably within a period of two months from the date of appearance of the



petitioner;

(g) The Assessing Officer shall pass a speaking order assigning reasons, copy whereof shall be supplied to the parties;

(h) Liberty reserved to the petitioner to challenge the order before this Court, if so required and desired;

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

(j) 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;

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

(l) Needless to add, any amount found to have been paid or recovered from the petitioner, in excess of what was due and payable, shall be refunded/adjusted against future demands.

The instant petition stands 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/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	10.03.2022
Transmission Date	

