IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7866 of 2022

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M/s Cement Emporium through its Proprietor Manoj Kumar Singh, male aged about 58 years, resident of Village Kharari ward no.- 14 (Khothi), P.O. - Khrarari, P.S. - Hayaghat, District - Darbhanga.

... ... Petitioner/s

Versus

1. The Union of India through the the Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
2. The Under Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. The Joint Commissioner State Tax (J.C.S.T.) Darbhanga.
6. The Assistant Commissioner State Tax, Darbhanga.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Rajeev, Advocate
For the Respondent/s	:	Dr. K.N.Singh, A.S.G. Mr. Anshuman Singh, Sr. S.C., CGST & CX
For the State	:	Mr. Vivek Prasad, G.P.-7

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

Date : 20-06-2022

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

> "That the present writ application is for quashing of the Letters/demand Notices dated 15.03.2020 issued vide reference No. ZA100320018223M issued by Respondent No. 7 as contained in Annexure-2 series, by which the

> petitioner has been directed to pay total CGST/SGST Tax amount of Rs. 5,26,567.56/- plus interest applicable as per under under section 73(1) for the period Financial Year 2018-19, which are not only illegal but arbitrary exercise by power vested to them as well as without any jurisdiction and beyond the terms and conditions mentioned in the respective of its sale and purchase and also for quashing of order dated 31/12/20 passed in Appeal No. ARN-AD100620000854S pleased to passed the impugned order in most arbitrary, unreasonable and mala fide manner exceeding its jurisdiction, wherein he has override the statue and in order to grant undue favour to provide revenue and has over looked even the order of apex court and Hon'ble Court also. The impugned order are unreasonable and has been passed in an utter violation of the principle of natural justice."

It is brought to our notice that the appeal of the petitioner has been rejected only on the ground of non-receipt of certified copies of the assessment order.

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Appellate Authority for deciding the appeal afresh. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

Having heard learned counsel for the parties as also perused the record made available, we dispose of the present petition in the following mutually agreeable terms:-

(a) We quash and set aside the impugned order dated 31.102.2020 passed by the Additional Commissioner of State Tax (Appeal) under Form GST APL-02 in GSTIN/Temp ID/UIN 10CDBPS2541A1ZD;

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

(c) Petitioner undertakes to appear before the Appellate Authority concerned on 04.07.2022 at 10:30 A.M., if possible through digital mode;

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

(e) During pendency of the appeal, no coercive steps shall be taken against the petitioner.

(f) The Appellate Authority shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

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

(h) 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;

(i) The Appellate Authority shall pass a speaking order assigning reasons, copy whereof shall be supplied to the parties;

(j) Liberty reserved to the petitioner to challenge the order, if required and desired;

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

(l) 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;

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

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/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	23.06.2022
Transmission Date	