

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9739 of 2022

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Rana Construction a proprietary concern having its office at Mrityunjay Bharati, H. No.- 54, Girija Kunj, Saraswati Lane, East Lohanipur, Patna - 800003, Bihar through its proprietor Mrityunjay Bharti (Male, aged about 43 years) son Shri Ram Bhawan Prasad resident of Girija Kunj, Lohanipur, Kadamkuan, Phulwai, District Patna, Bihar- 800003.

... .. Petitioner/s

Versus

1. Commissioner of CGST and Central Excise having its office at Central Revenue Building, (Annexe), Bir Chand Patel Marg, Patna.
2. Addl. Commissioner of CGST and Central Excise Patna-1 having its office at Central Revenue Building, (Annexe), Bir Chand Patel Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, CGC

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-11-2022

Heard learned counsel for the parties.

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

- i) the demand cum show cause notice dated 28.03.2019 (as contained in Annexure -3) issued by the respondent no. 1 proposing levy of Service Tax, interest and penalty on the basis of certificate of deduction of tax at source under the Income Tax Act be quashed.



- ii) the order dated 31.03.2022 (as contained in Annexure -5) passed by the respondent no. 1 imposing Service Tax, interest and penalty without consideration of the written submissions, the exemption Notification issued by the Central Government on the gross value of the contract and also Article 366 (29Ab) read with Entry 54 of List II of the Constitution of India be quashed.
- iii) the order dated 31.03.2022 (as contained in Annexure -5) passed by the respondent no. 1 imposing Service Tax, Interest and Penalty without consideration of the written submissions and the documents filed along therewith run counter to the settled principles of natural justice and fair play in action and as such is wholly illegal and without jurisdiction?
- iv) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

Learned counsel for the petitioner seeks permission to withdraw the present petition, more so, in view of the averments made therein.

At this stage, Shri D.V. Pathy, learned counsel for the petitioner states that petitioner be permitted to file a fresh petition on the same and subsequent cause of action.

Permission granted.

As and when any such petition is filed, Registry is directed to process the same and have it listed on priority basis.



The instant petition stands disposed of as withdrawn
in the aforesaid terms.

Interlocutory Application(s), if any, shall stand
disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	14.11.2022
Transmission Date	

