IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11406 of 2022

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Goel Phonex GSTIN - 10AIIPK8963G1Z7, through its proprietor Mukesh Kumar, Male, Aged about 49 years, Son of Sri Bharat Lal Azad, Resident of Muhalla- Nawada, P.O. and P.S.- Nawada, Ara, District - Bhojpur (Bihar), having its Business at - NA, Veer Complex Jail Road, Ara, P.S. - Town Thana, Ara, Bhojpur, Bihar Pin - 802301.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-Cum-Commissioner, Department of State Taxes, Government of Bihar, Patna Pin - 800001.
2. The Assistant Commissioner State Taxes Shahabad Circle, Ara, District - Bhojpur, Bihar, Pin - 802301.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Harendra Singh, Advocate
For the Respondent/s	:	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 : 17-08-2022

Petitioner has prayed for the following relief(s):

(i) For issuance of a writ in the nature of certiorari for quashing and waiver of interest and penalty imposed and demanded vide the ex-parte order reference No. ZA100320005810M dated 05.03.2020(Annexure-2 Series) and

ZA1002210078451 dated 10.02.2021(Annexure -3 Series). issued under section 73 of the Bihar Goods and Services Tax Act, 2017 and summary of order in FORM GST DRC - 07 dated 05.03.2020 and 10.02.2021 under rule 142(5) of the Bihar Goods and Services Tax Rules, 2017 passed and issued by respondent No. 2 under section 73(9) of the Bihar Goods and Services Tax Act, 2017 for the tax period 2019-20 in GSTIN 10AIIPK8963G1Z7 against the Govt. of India Notification No.63/2020 dated 25.08.2020 and clarified on 26.08.2020 vide press release ID:1648751 by PIB Delhi (Annexure -4 Series) and against the provision of section 50(3) of The Central Goods and Services Tax Act,2017(herein after referred to as 'the CGST Act, 2017' in short) as amended by Finance Bill 2022(Annexure-7).

(ii) For issuance of a writ in the nature of certiorari for quashing of the ex-parte order reference No. ZA100320005810M dated 05.02.2020 issued under section 73 of the Bihar Goods and Services Tax Act, 2017 and summary of order in FORM GST DRC - 07 dated 05.03.2020 under rule 142(5) of the Bihar Goods and Services Tax Rules, 2017 passed and issued by respondent No. 2 under section 73(9) of the Bihar Goods and Services Tax Act, 2017 for the tax period 2019-20 (APR 2019- JUNE 2020)as it is duplicity of the order reference no. ZA1002210078451 dated 10.02.2021 (Annexure -3 Series).

(iii) For issuance of a writ in the nature of certiorari for quashing of the consequent recovery order no.1250 dated 21.02.2022 and order no.1265 dated 22.02.2022 issued under 79(1)(C) in FORM GST DRC-13 under rule 145(1) of the aforesaid act and rules in GSTIN 10AIIPK8963G1Z7 whereby and where under the Bank Account of the petitioner for or on account of PAN-AIIPK8963G, A/C-22008700011937 situated in PUNJAB NATIONAL BANK, BRANCH, CHOWK ARA has been frozen by order of the respondent authority.

(iv) For issuance of a writ or order or direction restraining the respondent authorities from making any coercive recovery of the amount in demand (tax, interest and penalty) as contained in the order dated 05.03.2020 and 10.02.2021 and consequent recovery order no.1250 dated 21.02.2022 and order no.1265 dated 22.02.2022 during pendency of the present writ application.

(v) For a direction to the Respondent Authorities for instructing the Bank to de-freeze the account of PAN-AIIPK8963G, A/C-22008700011937 of the Petitioner having GSTIN 10AIIPK8963G1Z7 allowing the petitioner to operate the account as the petitioner has become handicapped in discharging his liabilities and business transactions.

(vi) For holding and a declaration that the impugned order dated 05.02.2020 passed by respondent no. 2 is highly cryptic, misconceived, nonspeaking and violative of principle of natural justice and without application of mind.

(vii) For any other relief / reliefs for which the Petitioner is entitled for in the facts and circumstances of the case.

Shri Vikash Kumar, learned counsel for the respondents, states that if the petitioner were to prefer an appeal assailing the impugned orders dated 10.02.2021, 21.02.2022 (Annexure-2 series) and orders dated 05.03.2020 and 22.02.2022 (Annexure-3 series) within a period of four weeks, the issue of limitation shall not be allowed to come in the way of adjudication of the appeal on its merits, more so in view of the decision rendered by the Hon'ble Apex Court as also this Court dealing with the issue of limitation during the time of pandemic Covid-19.

Statement accepted and taken on record.

Learned counsel for the petitioner states that petitioner has already deposited 1,40,000/- with the appropriate authority.

If that were so, the said amount shall be accounted for the purposes of pre-deposit of the amount prior to the hearing of the appeal.

Since the matter pertains to the financial year 22019-2020, we hope and expect that the Appellate Authority shall decide the appeal expeditiously and preferably within a period of three months thereafter.

Petitioner undertakes to deposit a sum of Rs.16,000/- within a period of one week from today.

Statement accepted and taken on record.

In this view of the matter, we direct petitioner's account No. 22008700011937 to be de-freezed/de-attached.

However, failure to do so would entail consequences of violation of order passed by this Court as also option of the authorities to re-freeze the account afresh.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS

AFR/NAFR	
CAV DATE	
Uploading Date	22.08.2022
Transmission Date	