IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14344 of 2022

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M/s Royal Enterprises through its proprietor Pawan Kumar Mishra, Male, aged about 45 years, S/o Awdhesh Kumar Mishra, R/o Jagarnathpur,. PO- Nandlalpur, PS-Kahalgaon, Dist-Bhagalpur, Pin-813222 Bihar.

... ... Petitioner/s

Versus

1. The Union of India through The Secretary, Department of Revenue, Ministry of Finance, New Delhi.
2. The Secretary, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
3. The Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
4. The Chief Commissioner of Central Taxes, 3rd Floor, Central Revenue (Annex) Building, Birchand Patel Path, Patna.
5. The State of Bihar through the Commissioner-cum-Secretary, Commercial Taxes, Govt. of Bihar, Patna.
6. The Commissioner of State Tax, Vikash Bhawan, Patna.
7. The Assistant Commissioner of State Tax,m Bhagalpur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Advocate
For the Unionof India	:	Mr. Dr. K.N. Singh, Sr. Advocate, ASG Mr. Anshuman Singh, Sr. SC
For the State	:	Mr. Vikash Kumar, S.C. 11

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

Date : 17-10-2022

Petitioner has prayed for following relief(s) :

a. For issuing writ/writs, order/orders including the writ of certiorari for quashing DRC13 bearing No. 2123 dated 23.08.2022, (Notice for recovery from to third Party) issued to State Bank of India. CSTPPA Branch, Bhagalpur seeking thereby for recovery of Rs. 1,33,53,723/- from the Bank account bearing A/c-00000031553384383 (in the name of petitioner) as against demand in form of DRC-07 dated

31.12.2021 for the period of April 2018 to March 2019.

b. For issuing writ/writs, order/orders including the writ of certiorari for quashing DRC13 bearing No. 2124 dated 23.08.2022, (Notice for recovery from to third Party) issued to (i) Executive Engineer, Rural Works Department, Works Division, Babu Tola, Kahalgaon, (ii) NTPC Ltd., Fraser Road, Dak Bunglow Chowk. Patna. (iii) Rural Works Department Works Division, Bhagalpur directing thereby for recovery of Rs. 1,33,53,723/- (to be deducted from the payable amount to the petitioner) against demand in form of DRC-07 dated 31.12.2021 for the period of April 2018 to March 2019.

c. For issuing writ/writs, order/orders including the writ of mandamus for directing thereby to the respondent, not to proceed for recovery of Tax/GST liability of the petitioner from third party through DRCI3 dated 23.08.2022 (Annexure-P/1, P/2) against Summary of Order (demand notice in issued in FORM GST DRC 07) dated 31.12.2021 issued for the tax period April 2018 to March 2019 wherein a demand worth Rs.1,33,53,723/- for aforesaid tax period has been levied against the Petitioner.

d. For issuing a writ/writs or order/orders or direction/directions in the nature of mandamus upon Respondent No.6 to consider the case of the petitioner and grant opportunity to petitioner to pay raised demand amount worth Rs. 1,33,53,723/- (after deduction of excess paid amount/refundable worth Rs 25,70,729 refundable to the petitioner) in installment under the provision of Section 80 of GST Act 2017.

e. For issuing a writ/writs or order/orders or direction/directions in the nature of mandamus upon the respondents to release bank account of the petitioner firm bearing the Bank account No.- 00000031553384383 with State Bank of India, CSTPPA Branch, Bhagalpur.

f. For holding that the manner in which recovery through DRC 13 (Annexure P/1 and P/2) demand for

> tax, interest and penalty has been raised against the Petitioner is in violation of principles and Natural Justice. The petitioner may be given an opportunity to pay the imposed tax amount including interest and penalty (after deduction of excess paid amount/refundable worth Rs 25,70,729 refundable to the petitioner) in installment."

On 12.10.2022, we had passed the following order:

> "Mr. Vikash Kumar, learned Standing Counsel-11 to obtain instructions as to whether the petitioner can pay the amount in terms of the impugned order in installment. It stands clarified that the petitioner does not intent to challenge the impugned order.
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> List on 17th of October, 2022."

Petitioner was liable to pay a sum of Rs.1,44,95,633/- as per summary order dated 31st of December, 2021. Thereafter, petitioner has only paid a sum of Rs. 25 Lacs+11 Lacs as per Annexure-1, page-17 in terms of demand order dated 31st of December, 2021, petitioner was liable to pay a sum of Rs.1,33,53,723 (page-17).

Learned counsel for the petitioner states that petitioner be permitted to pay the said amount along with interest accrued thereupon in 6 equal installments.

State has no objection to the same, even though it was initially resisted, but however, since petitioner is ready to pay interest on the said amount, the State, in principle, agrees to the principle set out by the petitioner.

As such, petition is disposed of in the following mutually agreeable terms:

a. Petitioner shall pay a sum of Rs.1,33,53,723/- along with interest at the rate in terms of the Statute accrued thereupon with effect from 31st of December, 2021;

b. The said amount shall be paid in 6 equal installments, commencing from 1st of November, 2022;

c. Petitioner also undertakes to deposit a sum of Rs.20 Lacs on or before 31st of October, 2022.

In view of the same, the order dated 23.08.2022, insofar as it relates to the attachment of petitioner's account, shall remain in abeyance.

Equally, the order to the effect that it binds third party, shall also remain suspended till the time payment, complete in all respects, is made by the petitioner.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/chn

AFR/NAFR	
CAV DATE	
Uploading Date	21.10.2022
Transmission Date	