IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21058 of 2021

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M/s SJS Business Enterprises Private Limited a company incorporated under the Companies Act, 1956, having its registered office at Hotel Ambassador/ Syndicate, Main Road Budhan Purwa, Buxar, Dist.- Buxar (Bihar), Pin- 802101, through its Managing Director namely Mithilesh Singh, aged about 61 years, Gender- Male, S/o- Ambika Singh, Hotel Embassy, K.C. Sen Road, Paltan Bazar, Rehabari, Kamrup Metro, Assam- 781008.

... ... Petitioner/s

Versus

1. The Union of India through the Commissioner of Central Excise, Central and GST, Central Revenue Building, Bir Chand Patel Path, Patna- 800001.
2. The Commissioner, Central GST and Central Excise, Patna, Bihar.
3. The Assistant Commissioner, Central GST and Central Excise Patna (West) Division, Patna, Bihar.
4. The Superintendent, Central GST and CX, Buxar Range, Bihar.
5. The Directorate General of Systems and Management, New Delhi.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajat Kumar Tiwary, Advocate
For the Respondent/s	:	Mr.Dr. Krishna Nandan Singh (ASG)

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

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 04-01-2022

Petitioner has prayed for the following relief(s):

"i) To issue a writ/ order/ direction in the nature of certiorari for quashing the Demand-Cum-Show Cause Notice dated 11.10.2021 issued under the Signature of the Assistant Commissioner CGST & Central Excise Patna (West) Division, Patna for the recovery of Service Tax amounting to Rs.12,56,374/- (Rupees Twelve Lakhs Fftty Six Thousand Three Hundred and Seventy Four Only) (Inclusive of all Cesses) for the period from April. 2016 to June, 2017. (Annexure – 9).

ii) To hold and declare that the issuance of the Demand-Cum-Show Cause Notice dated 11.10.2021 is wholly illegal as the mandatory provisions of Section 73 of the Finance Act. 1994 has not been complied.

iii. To issue a writ/ order/ direction in the nature of mandamus to direct the respondent authorities for staying the operation of the Demand-Cum- Show Cause Notice dated 11.10.2021 by which the petitioner company has been directed to pay Service Tax for the period from April, 2016 to June, 2017.

iv) To hold and declare that the proceeding under Section 73 (1) of the Finance Act. 1994 is not maintainable as the same is time barred.

v) To restraint the respondent authorities from charging any interest on the total taxable amount till the pendeney of this present case and also prevent the respondents from taking any coercive actions against the petitioner company.

vi) To any other relief or reliefs for which the petitioner company is found to be entitled in the facts and circumstances of the case."

It is a matter of record that in response to the demand-cum-show cause notice issued by the respondent authorities, the petitioner has already filed its response. The matter is yet pending adjudication before the appropriate authority. The appropriate authority is fully competent to adjudicate all issues, including that of law and fact. As such, we are not inclined to interfere with the notice to show cause issued by the respondent for the competent authority can take an appropriate decision in that regard. We notice that the matter pertains to the year 2020-21 and we see no reason as to why the appropriate authority ought not to have decided the issue at the earliest.

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

(a) Petitioner shall make himself available in the office of Respondent No. 3, namely The Assistant Commissioner, Central GST and Central Excise, Patna (West) Division, Patna, Bihar on 28.01.2022 at 10:30 a.m.;

(b) Petitioner shall fully cooperate and not take any unnecessary adjournment;

(c) The appropriate authority shall decide all issues of fact and law and deal with each one of the contentions raised by the petitioner expeditiously, in any case within the current financial year;

(d) The order assigning reasons, shall be supplied to the parties;

(e) Liberty reserved to the parties to take appropriate action on the same and subsequent cause of action, should the need so arise.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.01.2022
Transmission Date	