IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15886 of 2022

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Abhay Enterprises a proprietary concern having its office at Vill Paduman Chhapra, Panch- Bathna, Block- Kesaria, near Bathna Mandir, East Champaran, Bihar- 845424 through its proprietor Abhay Kumar Giri (Male, aged about 40 years) son of Ramshiv Giri at present residing at Vill- Lala Chhapra, Ward No. 3, Lala Chhapra, East Champaran, Bihar- 845424.

... ... Petitioner/s

Versus

1. State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Asst. Commissioner of State Tax, Motihari, Tirhut, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.D.V.Pathy, Advocate Mr. Sadashiv Tiwari, Advocate
For the Respondent/s	:	Mr.Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
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 : 09-12-2022

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

"i) the order dated 26.10.2021 (as contained in Annexure-11 Series) passed by the Respondent No. 2 under Section 74 of the Bihar Goods and Value Added Tax Act, 2017 for the Financial Year 2020-21 be quashed.

ii) the order dated 16.11.2021 (as contained in Annexure-12 series) issued by the Respondent No. 2 on the basis of the inspection report of the Motihari Circle and the Central Investigation Bureau, Patna under Section 74 of the Bihar Goods and Value Added Tax Act, 2017 for the Financial Year 2020-21 be quashed.

iii) the show cause notice dated 18.09.2021 (as contained in Annexure-10 series) issued by the Respondent No. 2 under Section 74 of the Bihar Goods and Value Added Tax Act, 2017 for the Financial Year 2020-21 be quashed.

iv) for granting any other relief(s) to which the petitioner is otherwise found entitled to.

After the matter was heard for some time, more so in view of objections raised by the respondents, we are of the considered view that interest of justice would be best served with the petitioner preferring an appeal, statutory in nature, before the final fact finding adjudicatory authority and the said authority deciding the appeal expeditiously.

Shri Vikash Kumar, learned SC 11, states that if the petitioner were to approach the appellate authority, and fully co-operate, the appeal would be decided within next six months.

We notice that the issues raised, subject matter of the present petition, are more factual in nature more so when there is serious dispute with regard to the contents of the communication of the Central Investigation Bureau, which led to the Revenue initiating action under the provisions of the Bihar Goods and Value Added Tax Act, 2017. Whether petitioner was ever served a notice; was afforded adequate opportunity of hearing; whether the material placed on record stands considered by the authority or not, are all issues of fact, which the final fact finding authority can look into.

Equally, whether the authority conducting the inquiry had the jurisdiction or not is also an issue raised, which can be conveniently looked into and examined by the Appellate Authority.

The appeal, being statutory in nature, provides for an equally efficacious remedy to the petitioner.

As such, the present petition, as prayed for, is disposed of reserving liberty to the petitioner to prefer an appeal within a period of two weeks from today.

We are hopeful, as is so stated by Shri Vikash Kumar, that the Appellate Authority shall decide the appeal within a period of six months.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2022
Transmission Date	