IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16379 of 2022

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Maa Automobiles through its Proprietor Jay Prakash Singh, Aged about 40 years, Male, Son of Jawahar Lal Singh, Resident of- 102, Chitnama, Daudpur, Maner, P.S.- Maner, Patna.

... ... Petitioner/s

Versus

1. The Union of India through the Principal Chief Commissioner of Central Tax, Government of India, New Delhi.
2. The Principal Commissioner of Central Tax, Government of India, New Delhi.
3. The Commissioner of Central Tax, Government of India, New Delhi.
4. The State of Bihar through the Principal Chief Commissioner, State Tax, Bihar, Patna.
5. The Chief Commissioner, State Tax, Bihar, Patna.
6. The Additional Commissioner, State Tax, Bihar, Patna.
7. The Joint Commissioner, State Tax, Patna West Division, Patna.
8. The Deputy Commissioner of State Tax, Danapur, Patna.
9. The Assistant Commissioner of State Tax, Danapur, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
		Mr. Anshuman Singh, Sr. SC, CGST & CX
		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 : 16-12-2022

Petitioner has prayed for following relief (s) : -

> "i. For setting aside the order dated 30.12.2020, passed by the Assistant Commissioner of State Taxes, Danapur Circle, Patna for the financial year April-2019 March 2020, whereby the order under Section 61 (3) of Bihar Goods and Services Tax Act, 2017 has been passed without even serving a notice under Section 61 (1), Rule 99, ASMT 10 whereby decision was taken to issue notice under Section 71 in DRC 01 for Rs. 23,78,532/-.
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> ii. For setting aside the order dated 15.02.2021, passed by the Assistant Commissioner of State Taxes, Danapur Circle, Danapur, under Section 79 (3) of the Bihar Goods and Services Tax Act, 2017 for the tax period April 2019 to March 2020 whereby the tax, interest and penalty of Rs. 23,78,532/- has been issued.
>
> iii. For setting aside the DRC 07 dated 15.02.2021, issued for an amount of Rs. 23,78,532/-.
>
> iv. For setting aside the DRC 013 dated 21.07.2022 for an amount of Rs. 5,60,010/-.
>
> v. For any other relief / reliefs for which the petitioner may be deemed entitled too."

Shri Ranjeet Kumar, learned counsel for the petitioner states that out of total amount of Rs.23,78,532/- as demanded by the respondents, around Rs.18,00,000/- stands recovered.

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Assessing Authority for deciding the case afresh. Also, the case shall be decided on merits. Also, during pendency of the case, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

However, having heard learned counsel for the parties as also perused the record made available, we are of the considered view that this Court, notwithstanding the statutory remedy, is not precluded from interfering where, *ex facie*, we form an opinion that the order is bad in law. This we say so, for two reasons- (a) violation of principles of natural justice, i.e. Fair opportunity of hearing. No sufficient time was afforded to the petitioner to represent his case; (b) order passed *ex parte* in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order, *ex parte* in nature, passed in violation of the principles of natural justice, entails civil consequences. As such, on this short ground alone, we dispose of the present writ petition in the following mutually agreeable terms:

(a) We quash and set aside the impugned orders dated 30.12.2020, 15.02.2021 and 21.07.2022 passed by the Respondent No.95, namely the Assistant Commissioner of State Tax, Danapur, Patna;

(b) We also direct for de-freezing/de-attaching of the bank account(s) of the writ-petitioner, if attached in reference to the proceedings, subject matter of present petition. This shall be done immediately.

(c) Petitioner undertakes to appear before the Assessing Authority on 04.01.2023 at 10:30 A.M., if possible through digital mode;

(d) The Assessing Authority shall decide the case on merits after complying with the principles of natural justice;

(e) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(f) During pendency of the case, no coercive steps shall be taken against the petitioner.

(g) The Assessing Authority shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

(h) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(i) The Assessing Authority shall decide the case on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

(j) The Assessing Authority shall pass a speaking order, assigning reasons, copy whereof shall be supplied to the parties;

(k) Liberty reserved to the petitioner to challenge the order, if required and desired;

(l) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(m) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(n) We have not expressed any opinion on merits and all issues are left open;

(o) If possible, proceedings be conducted through digital mode;

The instant petition sands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

KC Jha/chn

AFR/NAFR	
CAV DATE	
Uploading Date	20.12.2022
Transmission Date	