IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3531 of 2023

The Bihar State Food and Civil Supply Corporation Ltd. through the Manager Director, BSFC, Khadya Bhawan, R. Block, Patna.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary of Finance, Government of India, New Delhi.
2. The Commissioner of Income Tax (Appeals) Income Tax Department, Delhi.
3. The Joint Secretary, Food and General Distribution Ministry, New Delhi.
4. The Income Tax Commissioner (T.D.S.) Circle Income Tax Department, Patna.
5. The Assistant Commissioner of Income Tax T.D.S. Circle, Patna.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 4212 of 2023

The Bihar State Food and Civil Supplies Corporation Ltd. through its the Managing Director, BSFC, R. Block, Khadya Bhawan, P.S. - Secretariats, District - Patna.

... ... Petitioner/s

Versus

1. The Union of India through Secretary of Finance, Government of India, New Delhi.
2. The Income Tax Commissioner (TDS), TDS Circle Income Tax Department, Patna.
3. The Income Tax Commissioner (Appeal) Income Tax Department, Patna.
4. The Joint Commissioner of Income Tax Renge, Patna (ITBA Module).

... ... Respondent/s

Appearance :
(In Civil Writ Jurisdiction Case No. 3531 of 2023)
For the Petitioner/s : Mr. Anjani Kumar, Sr. Advocate
Mr.Shailendra Kumar Singh, Advocate
For the Respondent/s : Mrs. Archana Sinha, Sr. S.C.
(In Civil Writ Jurisdiction Case No. 4212 of 2023)
For the Petitioner/s : Mr. Anjani Kumar, Sr. Advocate
Mr.Shailendra Kumar Singh, Advocate
For the Respondent/s : Mrs. Archana Sinha, Sr. S.C.

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 09-11-2023 Though the cases were to be posted on 29.11.2023, we directed the Registry to post these cases today in view of Notification No. 53 of 2023-Central Tax, dated 02.11.2023 (S.O. 4767(E), issued by the Central Board of Indirect Taxes and Customs, on mentioning made by Shri Anjani Kumar, learned Senior Advocate for the petitioner.

2. The petitioner is aggrieved with Annexure-1 order passed in an appeal.

3. It is submitted that the petitioner's lawyer was unable to appear and the appeal was considered *ex parte*. However, it is categorically submitted by the learned Senior Standing Counsel for the Income Tax Department that even according to the petitioner, there are appeals filed from the order impugned in the writ petition.

4. In such circumstances, we do not think that Article 226 of the Constitution can be invoked to consider Annexure-1 order. The appellant would be entitled to seek for an interim order in the appeal before the Tribunal or an early disposal of the appeal itself. The appellant would be granted a month's time

to make the request before the learned Tribunal.

5. We request the learned Tribunal to either dispose of the appeal expeditiously or consider the interim order sought for by the assessee, if the appeal cannot be disposed of within a time frame.

6. The coercive proceeding against the assessee shall stand stayed for a period of two months from today and then it shall depend upon the orders passed by the Tribunal.

7. The writ petitions shall stand disposed of, without any observation on merits.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

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