IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6444 of 2023

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M/s R.P. CONSTRUCTION having its office at Dak Bungla Road, Kahalgaon, Bhagalpur, Bihar, 813203 through its Proprietor, Shiv Shannkar Singh (Male), aged about 41 Years, S/o Rajendra Prasad Singh Residing at Ward No.13, Nandlalpur, P.O.-Nandlalpur, P.S.-Kahalgaon, District-Bhagalpur, Bihar, Pin-813222.

... ... Petitioner/s

Versus

1. The Union of India Through the Secretary Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001.
2. The Secretary Department of Revenue, Ministry of Finance, North Block, New Delhi-110 001.
3. The State of Bihar through the Commissioner Cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
4. The Commissioner Cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
5. The Additional Commissioner of State Tax (Appeals), Bhagalpur Division, Bhagalpur, Bihar.
6. The Joint Commissioner of State Tax, Bhagalpur Circle, Bhagalpur, Bihar.
7. The Assistant Commissioner of State Tax, Bhagalpur Circle, Bhagalpur, Bihar.
8. The Executive Engineer, Rural Works Department, Works Division, Banka-2, District-Banka.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Brisketu Sharan Pandey, Advocate
For the State	:	Mr. Vikash Kumar, S.C. 11
For the Union of India	:	Dr. K.N. Singh, Additional Solicitor General
		Mr. Anshuman Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-07-2023

The petitioner is concerned with the dismissal of an appeal which the petitioner contends is without referring to the merits of the contentions. The petitioner is specially concerned with the assessment made on the basis of a TDS deduction carried out by the

Executive Engineer, Rural Works Department, Works Division, Banka-2. It is very evident from the assessment order that the TDS was deducted by the Executive Engineer, Rural Works Department on the works said to have been carried out by the petitioner R.P. Construction. In the appeal the petitioner is said to have produced Annexure- P/8, which is a certificate issued by the Executive Engineer certifying that Shiv Shankar Singh with GSTIN No. 10BICPS7607G2ZG has not performed any contractual work. It is the contention of the petitioner that the Appellate Authority did not consider the said document despite production of the same.

2. Learned Government Pleader on the other hand, submits that the proprietor of the petitioner had two businesses, one a proprietorship and a partnership. The proprietorship was run as RP Construction with the GSTIN No. 10BICPS7607G2ZG. The partnership was dissolved as early as in 2020 which has the GSTIN No. 10AAKFR1419C2ZU. It is also submitted that there can be no reliance placed on Annexure-P/8, especially when the return was filed by the Executive Engineer and there was no provision to revise it as per Section 39(9) of the Bihar Goods and Services Tax Act, 2017 (for brevity “BGST Act”) after 13th November, 2021, the assessment year being 2019-2020.

3. We have looked at the appellate order and we find that the Appellate Authority specifically speaks of no document having been produced before it at the time of hearing. The mere reference to

the screen-shot produced at Page-37 wherein an annexure is shown cannot substantiate the contention that it was the certificate Annexrue-P/8 which was produced before the Appellate Authority. Even otherwise, there can be no reliance placed on Annexure-P/8 certificate for reason of no such certificate being permissible for the purpose of assessment as per the BGST Act and also for the reason that the certificate has been issued in the name of Shiv Shankar Singh and not in the name of R.P. Construction, which is registered as a proprietorship under the BGST Act.

4. We find absolutely no reason to entertain the writ petition and dismiss the same.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	18.07.2023
Transmission Date	