IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8063 of 2022

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Rahul Kumar Son of Surendra Nath Singh Resident of Ward No.12, Makardahi, Begusarai, Bihar 851134.

... ... Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax, having its office at Vikas Bhawan Bailey Road, Patna.
2. Addl. Commissioner of State Tax (Appeal), Darbhanga Division, Darbhanga.
3. Asst. Commissioner of State Tax, Begusarai, Darbhanga, Bihar.

... ... Respondent/s

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

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-05-2023

The petitioner is concerned with Annexure-9 appellate order, which rejected his appeal without any consideration of the merits.

Learned Government Advocate refers to the counter affidavit and points out that though the petitioner's grievance was confined to the short delay in payment of mobilization advance, there are other matters also, which were considered by the Assessing Officer and based on which the final assessment order was made.

We have looked at the counter affidavit and the appellate order. The reasons stated in the counter affidavit are not reflected in the appellate order. We find that the appellate order is a non-speaking order. We also refer to the judgment dated 25.04.2023 passed in **CWJ.C. No. 4349 of 2023,** titled as **Purushottam Stores Vs. The State of Bihar & Ors.**, in which we specifically found that even in the absence of the appellant or his authorised representative, the Appellate Authority has a statutory duty to go into the merits and pass a speaking order.

In the above circumstances, we set aside the appellate order at Annexure-9 and direct the petitioner to appear before the Appellate Authority on or before 09.06.2023. The Appellate Authority or its office shall fix a date of hearing on the said date, with due acknowledgment taken from the appellant; if the date of hearing is issued from the office, proceed with the hearing on the date fixed and dispose of the appeal on merits within three months from the date of last hearing and pass a speaking order.

The writ petition stands allowed with the above direction.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	08.05.2023
Transmission Date	