IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7004 of 2023

==

M/s. MRF Limited having its office at 2nd Floor, EMARAT AL HARMAIN, Bank Road, Patna, Bihar, 800001 through its Office Manager, James T M (Male), Aged About 46 Years, S/o Mathai Residing at Thadathil House, P.O. and P.S.- Vazhithala, Thodupuzha, District- Idukki, Kerala- 685583.

... ... Petitioner

Versus

1. The Union of India through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.
2. The Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.
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 State Tax (Appeals), Central Division, Patna.
6. The Joint Commissioner of State Tax, Patliputra Circle, Patna, Bihar.
7. The Assistant Commissioner of State Tax, Patliputra Circle, Patna, Bihar.

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Vijay Kumar Singh, Adv.
For the Respondent/s : Dr. K. N. Singh ASG with
Mr. Anshuman Singh Sr. SC, CGST & CX

==

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

Date : 12-05-2023

Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the dismissal of an appeal by the Appellate Authority on the ground of non-production of the certified copy. The dismissal was also on account of Rule

108(3) of the Bihar Goods and Services Tax Rules, 2017 providing for a certified copy to be filed within seven days from the date of institution of the appeal. The appellant failed to do that and hence the Appellate Authority rejected the appeal on 10-02-2023 on that ground.

In fact, by Notification No. 26/2022-Central Tax, dated 26th December, 2022, Central Board of Indirect Taxes and Customs, (Department of Revenue) Ministry of Finance, Government of India, had issued a notification by which sub-rule (3) of 108 in the CGST Rules, 2017 which is in *pari materia* with rule 108 of the BGST Rules, 2017, was amended. The amendment was as hereinbelow:

> *"13. In the said rules, in rule 108, for sub-rule (3), the following sub-rule shall be substituted, namely:-*
> *"(3) Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorized by him in this behalf and the date of issue of the provisional*

acknowledgment shall be considered as the date of filing of appeal:"

In such circumstances, there was no requirement for a certified copy, and attested copy of the order alone was sufficient, especially, when the same was auto populated.

In the above circumstances, we set aside the order in appeal at Annexure-P/5 series and restore the appeal to the files of the Appellate Authority. The petitioner shall appear before the Appellate Authority on 14.06.2023, on which date or on any other date, the appeal shall be heard and disposed of as expeditiously as possible.

With the aforesaid observations/directions, the writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Rajkishore/
Shyam Bihari-

AFR/NAFR	
CAV DATE	
Uploading Date	18-05-2023
Transmission Date	