IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17870 of 2019

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Sri Narayan Transport Corporation Registered Business Premises situated at Chhoti Pahari, P.S. Agam Kuan, Dist.Patna, through authorized signatory, Ramesh Raui, Male, Aged about (40), Son of Sri Mangala Rai, Permanent Address at Village Saryan, P.S. Koreadih, Dist.Ballia,Korantadih, State Uttar Pradesh

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner of State Tax, Bihar, Patna.
2. The Deputy Commissioner of State Tax (Investigation Bureau) Patna West Division, Patna
3. The Assistant Commissioner of State Tax (Investigation Bureau) Patna West Division, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhash Ranjan Thakur, Advocate

For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 24-07-2023

1. Heard learned counsel for the parties.

2. The petitioner has filed the instant application seeking quashing of the order dated 16.7.2019 (Annexure-4) passed by the Deputy Commissioner of State Tax, (Investigation Bureau), Patna West Division, Patna.

3. Having perused the material on record, it transpires that the relevant facts are that pursuant to an inspection carried out by the authorities of the Commercial

Taxes Department in the premises of the petitioner on 14.6.2019, discrepancies were detected and a notice dated 21.6.2019 was issued under sections 122 and 129 (4) of the Bihar Goods and Services Tax Act, 2017 ('BGST Act' in short) asking the petitioner to show cause. The petitioner filed his reply on 29.6.2019 and the respondents came out with an order dated 16.7.2019 imposing a total penalty of Rs.2,96,837/-. It is against this order that the petitioner has filed the instant writ application.

4. Learned counsel for the petitioner submits that the notice as contained in Annexure-1 was not in accordance with the statutory provisions as contained in section 67 of the B.G.S.T Act which requires that the notice be issued by a person not below the rank of Joint Commissioner. Further, it was submitted that so far as the summary of the order-cum- demand notice dated 17.7.2019 is concerned, the same does not contain signature of any authority.

5. In response, it was submitted by learned counsel appearing for the State that a counter affidavit has been filed in the case sworn by the State Tax Deputy Commissioner, (Investigation Bureau), Patna West Division, Patna, stating therein that the writ petition is fit to be dismissed on the ground

that no question of law has been framed by the petitioner as also the fact that the petitioner has an alternate and efficacious remedy of statutory appeal. It was further submitted that the petitioner does not have a GSTIN number but as would be evident from the summary of the order dated 17.7.2019 (Annexure-6) in Form GST DRC-07, it is Ramesh Rai who has the GSTIN number.

6. Having heard learned counsel for the parties and taking into consideration the facts of the case, it transpires that the show cause notice dated 21.6.2019 (Annexure-2) was issued under section 122 and 129(4) of the BGST Act under the signature of the Joint Commissioner of State Tax, Investigation Bureau, Patna West Division, Patna and is in accordance with law as required under section 67 of the BGST Act. After considering the reply of the petitioner, the respondents passed a detailed order dated 16.7.2019 under section 129 of the BGST Act under the signature of the Deputy Commissioner of State Tax (Investigation Bureau), Patna West Division, Patna imposing the penalty of a total amount of Rs. 2,96,837/-. The Court finds no illegality nor any irregularity in the said order which speaks about issuance of show cause notice to the petitioner, the reply filed by him and the hearing conducted

leading to passing of the said reasoned order. It may also be noted here that the order also mentions that in course of hearing the petitioner was represented by their two local representatives which included one Ramesh Rai, who has filed the instant writ application as the authorized signatory of the petitioner Corporation. Further so far as the summary of the order as contained in Form GST BRC-07 dated 17.7.2019 (Annexure-6) is concerned, the same does not contain the signature only for the reason of it being auto-populated.

7. For the aforesaid reasons as also the contents of the order impugned dated 16.7.2019, the Court finds no merit in the instant writ application and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	02.08.2023.
Transmission Date	