IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7913 of 2024

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Sona Infracon Private Limited A company registered under Companies Act, 1956 having its office at Vill Ababakarpur, P.O. Manpur (Tajpur), P.S. Bangara, Dist Samastipur, Bihar- 848130 through its Managing Director Shri. Naween Kumar (Male, aged about 43 Years) son of Late. Ram Chandra Singh, resident of Flat No. B-21, Geetanjali Apartment, Behind J.D. Womens College, Bailey Road, LBS Nagar, District Patna, Bihar 800023.

... ... Petitioner/s

Versus

1. Directorate General of GST Intelligence Patna Zonal Unit having its office at Cybotech Tower, Boring Patliputra Road, Patna-800013.

2. Additional Director, Directorate General of GST Intelligence, Patna Zonal Unit, having its office at Cybotech Tower, Boring Patliputra Road, Patna-800013.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sadashiv Tiwari, Advocate
For the Respondent/s	:	Dr. K. N. Singh, Additional Solicitor General
		Mr. Anshuman Singh, Sr. SC, CGST & CX
		Mr. Alok Kumar, Advocate
		Mr. Shivaditya Dhari Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 09-05-2024 The petitioner is aggrieved by the fact that a show-cause notice has been issued by an Officer, who is not competent to do so. The petitioner specifically refers to Annexure-P2 circular.

2. By Annexure-P2 circular, the Deputy or Assistant

Commissioner of Central Tax was assigned as the Proper Officer inter alia under sub-section (5) of Section 74, while the Superintendent of Central Tax was assigned as the Proper Officer under sub-section (5) of Section 73 of the C.G.S.T. Act. The impugned show-cause notice is issued by the Additional Director under Section 74(5). The learned Counsel for the petitioner admits that the Additional Director is equivalent to an Assistant Commissioner.

3. We also have to notice paragraph 6 of the circular which says as follows:-

> The central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as "DGGSTI") shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is registered. In case there are more than one noticees mentioned in the show cause notice having their principal places of business falling in multiple Commissionerates, the show cause notice shall be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee from whom the highest demand of central tax and/or integrated tax (including cess) has been made falls.

3. The petitioner's contention is that the adjudication can be done only by the Assistant Commissioner and not an Additional Director of G.S.T. Intelligence. We are of the opinion

that there is no reason to find incompetence on the Officer, who has issued the impugned communication especially since the circular specifically permits show-cause notices to be issued by the Central Tax Officers of Audit Commissionerates and Directorate General of G.S.T. In fact, what is impugned is not even a show-cause notice, it is just an intimation to pay up the amounts indicated therein failing which the only consequence is the issuance of a show-cause notice under Section 74(1) for which also the Additional Director is competent.

4. We find absolutely no reason to interfere with the impugned communication. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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