

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.144 of 2021

In
Civil Writ Jurisdiction Case No.11345 of 2021

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1. The Commissioner of CGST and Central Excise having its Office at Central Revenue Building (Annexe), Bir Chand Patel Marg, Patna.
 2. Superintendent CGST and Central Excise, Aurangabad, Bihar.

... .. Petitioner/s

Versus

M/s Bhola Sharan Singh, a proprietary concern having its Office at Old G.T. Road, Near Dani, Bigha Bus Stand, Shahpur, District-Aurangabad, Bihar through its Proprietor Bhola Sharan Singh (Male) aged about 68 Years, Son of Late Ram Lakhon Singh Resident of Old G.T. Road, Near Dani Bigha Bus Stand, P.S. Nagar Thana, Pipardih, Shahpur, District Aurangabad, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anshuman Singh, Advocate
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 19-04-2024

Present Civil Review is presented by the Central Excise Department to review the order dated 08.07.2021 passed in C.W.J.C. No. 11345 of 2021.

2. Respondent M/s Bhola Sharan Singh has prayed in the writ petition as under:

*“i) the demand cum show cause notice
dated 25.04.2018 (as contained in Annexure-3)
issued by the respondent no.1 proposing levy of*



Service Tax, interest and penalty be quashed.

(ii) the order dated 16.10.2020 (as contained in Annexure -5) passed by the respondent no.1 imposing Service Tax, interest and penalty without consideration of the written submissions, the exemption notification issued by the Central Government on the gross value of the contract and also Article 366 (29Ab) read with Entry 54 of List II of the Constitution of India be quashed.

(iii) the order dated 16.10.2020 (as contained in Annexure-5) passed by the respondent no.1 imposing Service Tax, Interest and penalty without consideration of the written submissions and the documents filed along therewith run counter to the settled principles of natural justice and fair play in action and as such is wholly illegal and without jurisdiction?

(iv) for granting any other relief(s) to which the petitioner is otherwise found entitled to.”

3. The writ petition was presented in the month of April, 2021. For the first time, C.W.J.C. No. 11345 of 2021 was listed on 08.07.2021 and on the same day, the Co-ordinate



Bench proceeded to dispose of the aforementioned petition whereby review petitioners have been denied an opportunity of filing counter affidavit. Thus, the present Civil Review has been filed. Service of notice in the present Civil Review has been taken note of on 29.03.2024 and the following order was passed:-

“Service of notice to the respondent is completed in view of the fact that the concerned respondent’s wife is stated to have received the notice.

2. In order to give one more opportunity, re-list this matter on 15.04.2024.”

4. Today, none appears, hence we are compelled to decide the Civil Review petition.

5. Having regard to the aforementioned dates and events and the fact that review petitioners have not been provided opportunity of filing counter affidavit in C.W.J.C. No. 11345 of 2021 and the fact that Co-ordinate Bench at once in the first date of hearing decided the main matter. Therefore, review petitioners have made out a case so as to recall the order of the Co-ordinate Bench dated 08.07.2021 passed in C.W.J.C. No. 11345 of 2021 and it is recalled. C.W.J.C. No. 11345 of 2021



stands restored on the file. Registry is hereby directed to list the C.W.J.C. No. 11345 of 2021 before the concerned roster Bench.

6. Accordingly, Civil Review No. 144 of 2021 stands allowed. Pending I.A., if any, stands disposed of in the light of deciding the present Civil Review No. 144 of 2021.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

Manish/-

AFR/NAFR	N.A.F.R
CAV DATE	N.A
Uploading Date	22.04.2024
Transmission Date	N.A

