

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11383 of 2024

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Varun Bevarages Limited, a company registered under the Companies Act, 1956 through its authorized representative, Mr. Anil Purohit, aged about- 42 years, Gender- Male, Son of Suraj Prakadsh Purohit, Resident of Colony- 16, Bharam Bagh, Jalori Gate, District- Jodhpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Tax, Patna, Bihar.
2. The Additional Commissioner of State Tax (Appeals), Darbhanga Division, Darbhanga.
3. The Joint Commissioner of State Tax, Bureau of Investigation, Darbhanga Division, Darbhanga.
4. The Assistant Commissioner of State Tax, Bureau of Investigation, Darbhanga Division.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tabish Sharfuddin, Advocate
For the Respondent/s : Mr. Vikash Kumar, Standing Counsel (11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-07-2024

The petitioner is aggrieved with the dismissal of his appeal at Annexure-9. The appeal is filed against a penalty imposed, on detention under Section 129 of the Bihar Goods and Services Tax Act, 2017 and the finding of attempt to evade tax. The petitioner obtained release of the goods after paying the entire penalty. The petitioner's appeal was rejected on two grounds; one that the hard copy was not filed and the other that in Annexure-9/A, the amount under dispute was not mentioned



at all.

2. The filing of a hard copy has been waived by the Government by notification dated 26.12.2022. In such circumstances, the appeal ought not to have been dismissed on the ground that the hard copy was not filed. The next ground is that the amount under dispute was not mentioned in Form GST APL-01, which is the appeal to the Appellate Authority. We see from Annexure-9/A that the petitioner has mentioned 'Not Applicable' as against the column of 'Amount under Dispute'. The said specification is for ensuring that pre-deposit is made as per Section 107(6). The proviso to sub-section 6 of Section 107 requires that any appeal filed against an order under Section 129(3) has to be accompanied with a deposit of 25% of the penalty.

3. In the present case, admittedly, the petitioner has paid the entire penalty. In such circumstances, though there is a procedural irregularity in Annexure-9/A having not shown the amount under dispute, we are of the opinion that the appeal has to be entertained.

4. We set aside Annexure-9 only on the technical reasons as noticed above. The appeal will stand restored before the first Appellate Authority which shall consider the same on



merits after affording an opportunity of hearing to the petitioner.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
Uploading Date	31.07.2024.
Transmission Date	

