IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2113 of 2022
In
Civil Writ Jurisdiction Case No.6795 of 2020

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1. The Union of India through Secretary, Department of Revenue, Ministry of Finance.
2. The Central Board of Indirect Taxes and Customs, through its Chairman, North Block, New Delhi- 110001.
3. The Commissioner Central GST and Central Excise, Patna-I, 3rd Floor, Central Revenue Building (Annexe), Birchand Patel Path, Patna- 800001.
4. The Assistant Commissioner, Central GST and Central Excise, Patna-I, 3rd Floor, Central Revenue Building (Annexe), Birchand Patel Path, Patna- 800001.

... ... Petitioner/s

Versus

1. M/s Planning and Infrastructure Development Consultants Pvt. Ltd., 4, Mitra Vihar, West Boring Canal Road, P.S. S.K. Puri, Patna-01 represented through Mr. Prabhat Kumar Singh (Male), Aged about 36 years, S/o Narbdeshwar Singh, Posted as Assistant Manager and Authorised Representative.
2. State of Bihar, through Principal Secretary, Commercial Taxes Department, Government of Bihar.
3. The Assistant Commissioner, State GST, Patna Central, Bihar.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Ranjay Kumar, Advocate
For the Opposite Party/s : Mr.Vivek Prasad, GP-7

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 13-03-2024

Union of India presented the present M.J.C. No. 2113 of 2022 insofar as modification of the directions of this Court at page 6 (a) to the extent that the petitioner was asked to approach 5th Respondent, who is the Union of India. On the other hand, petitioners have sought for quashing number of orders issued by the Assistant Commissioner of State Tax, Patna Central, State of Bihar, which are summery of the order in the FORM GST DRC-07. There may be a typographical error or inadvertently, petitioner in C.W.J.C. No. 6795 of 2020 was asked to approach – petitioner Union of India.

2. Taking note of this error, we proceed to recall the order dated 25.07.2022 passed in C.W.J.C. No. 6795 of 2020. We could have rectified to the extent of instead of Respondent No.5 Respondent No.6. However, having regard to the fact petitioners have assailed the number of summary of the orders in the FORM GST DRC-07 under statute vide Rule 100(1), 100(2), 100 (3) and 142(5), which is a statutory order. Against statutory order, there is no question of representation for redressal of the petitioner's grievance. Petitioner has remedy of Appeal/Review or Writ Petition is required to be examined. Therefore, we have taken *suo moto* decision to review the order dated 25.07.2022 passed in C.W.J.C. No. 6795 of 2020 in the light of Hon'ble Supreme Court decision in the case of ***Shivdev Singh v. State of Punjab*****, 1961 SCC OnLine SC 29 : AIR 1963 SC 1909.** In para 10, it is held as under:

> ***"10.*** *The other contention of Mr Gopal Singh*

pertains to the second order of Khosla, J., which, in effect, reviews his prior order. Learned counsel contends that Article 226 of the Constitution does not confer any power on the High Court to review its own order and, therefore, the second order of Khosla, J., was without jurisdiction. It is sufficient to say that there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. Here the previous order of Khosla, J., affected the interests of persons who were not made parties to the proceeding before him. It was at their instance and for giving them a hearing that Khosla, J., entertained the second petition. In doing so, he merely did what the principles of natural justice required him to do. It is said that the respondents before us had no right to apply for review because they were not parties to the previous proceedings. As we have already pointed out, it is precisely because they were not *made parties to the previous proceedings, though their interests were sought to be affected by the decision of the High Court, that the second application was entertained by Khosla, J."*

3. Accordingly, present M.J.C. petition stands allowed while restoring C.W.J.C. No. 6795 of 2020 on the file. Registry is hereby directed to list C.W.J.C. No. 6795 of 2020 before the concerned roster Bench for deciding the matter on merit.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	15.03.2024
Transmission Date	N.A