

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14402 of 2024

M/s Mani Printers, a proprietary concern having its office at Pani Tanki, Babuganj, Gaighat, Gulzarbagh, Patna, Bihar-800007 through its proprietor Chanchal Kumar Banerjee (Male, aged about 61 Years) son of Late Balaram Banerjee resident of Huse No. 13, Moh- Babua Ganj, Gaighat Main Road, Pani Tanki, Gulzarbagh, Patna- 800007, Bihar.

... .. Petitioner/s

Versus

1. State of Bihar, through Commissioner of State Tax, Bihar, Patna having its office at Kar Bhawan, Birchand Patel Marg, Patna- 800001.
2. Addl. Commissioner of State Tax, (Appeal), Patna East Division, Patna, Bihar.
3. Asst. Commissioner of State Tax, Patna City West Circle, Patna East, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate Mr. Sadashiv Tiwari, Advocate Mr. Hiresh Karan, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-11-2024

An amendment has been made to Section-112 of the Central Goods and Services Tax Act, 2017 substituting “twenty per cent” pre deposit to “**ten per cent**” for maintaining an appeal before the Goods and Services Tax Tribunal. The Tribunal has not yet been constituted and this Court had been granting orders based on the judgment in **SAJ Food Products Pvt. Ltd. vs. The State of Bihar & Others** in **C.W.J.C. No. 15465 of 2022**, allowing the assessee to deposit twenty per cent of the disputed amount of tax, till the Tribunal is constituted and



an appeal is filed also allowing stay of recovery.

2. As of now pre-deposit has been reduced to **“ten per cent”** and the same is made effective from 01.11.2024. It is an admitted position that the GST Tribunals have not been constituted as yet. In such circumstance we direct that the assessee on payment of **“ten per cent”** of the tax amounts in dispute shall be entitled to stay of recovery till the Tribunal is constituted and an appeal is filed within such time as provided therein.

3. This Court is, therefore, inclined to dispose of the instant writ petition in the following terms:-

(i) Subject to deposit of a sum equal to 10 percent of the amount of tax in dispute, if not already deposited, in addition to the amount deposited earlier under Sub-Section (6) of Section 107 of the B.G.S.T. Act, the petitioner must be extended the statutory benefit of stay under Sub-Section (9) of Section 112 of the B.G.S.T. Act. The petitioner cannot be deprived of the benefit, due to non-constitution of the Tribunal by the respondents themselves. The recovery of balance amount, and any steps that may have been taken in this regard will thus be deemed to be stayed.



(ii) The statutory relief of stay, on deposit of the statutory amount, however in the opinion of this Court, cannot be open ended. For balancing the equities, therefore, the Court is of the opinion that since order is being passed due to non-constitution of the Tribunal by the respondent-Authorities, the petitioner would be required to present/file his appeal under Section 112 of the B.G.S.T. Act, once the Tribunal is constituted and made functional and the President or the State President may enter office. The appeal would be required to be filed observing the statutory requirements after coming into existence of the Tribunal, for facilitating consideration of the appeal.

(iii) In case the petitioner chooses not to avail the remedy of appeal by filing any appeal under Section 112 of the B.G.S.T. Act before the Tribunal within the period which may be specified upon constitution of the Tribunal, the respondent-Authorities would be at liberty to proceed further in the matter, in accordance with law.

(iv) If the above order is complied with and a



sum equivalent to 10 per cent of the remaining amount of the tax in dispute is paid then, if there is any attachment of the bank account of the petitioner pursuant to the demand, the same shall be released.

4. With the above liberty, observation and directions, the writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	20.11.2024
Transmission Date	N/A

