IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17828 of 2024

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M/S Shubhankar Om Deo Construction Pvt Ltd., having its Place of Business Patliputra Colony, Patna-13 through its authorised Representative namely Rajesh Kumar age 53 Years (Male) Son of Late Shiv Lal Singh, R/o 148(B), Patliputra Colony, P.S. Patliputra, District-Patna, Pincode-800013.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-Cum-Commissioner, Department of Commercial Taxes Govt. of Bihar, Patna.
2. The Additional Commissioner of State Tax (Admin) Patna West Division, Govt. of Bihar, Patna.
3. The Joint Commissioner of State tax (In-Charge) Patna Central Circle-2 Govt. of Bihar, Patna.
4. The Deputy Commissioner of State Tax, Patna Central Circle-2 Govt. of Bihar, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Dhananjay Mishra, Adv
For the Respondent/s : Mr. Vikas Kumar, SC 11

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 23-01-2025 Learned counsel for the petitioner and Mr. Vikas Kumar learned SC-11 for the State.

2. The petitioner in the present writ application is seeking the following relief:

I. For a direction to accept all taxes in the light of Circular No. 238/32/2024 GST vide dated 15th October, 2024

II. For a direction to accept all dues of taxes along with interest/penalty/charges if any, as per the demand for taxes as on Rs. 4,50,506.00/- as per the demand notice

III. Any other relief/reliefs may be granted to the petitioner is entitled in the facts and circumstances of the case.

3. From the narration of the facts present in the writ petition, the petitioner is a company engaged in works contract. It admits that it is a service provider and the company was registered with Patna Central Circle-2 bearing GISTIN No. 10AAHCS7836CIZM. The petitioner was served with a demand notice of Rs. 4,50,506.00/- as, admittedly, petitioner failed to deposit the taxes during the Covid-19 period. In the writ application, petitioner has not disputed the demand. In para '6' of the writ application, it is stated as under:-

> "the petitioner is/was running from pillar to post for deposit the taxes along with interest/charges/penalty, if any, but no any action/step has/have been taken in this regard and thus the petitioner has been suffered for the same."

4. Learned counsel for the petitioner submits that petitioner has given representation dated 17.10.2024 as contained in AnnexureP/2 series and is ready to file his return and deposit the tax liabilities and it may be accepted with penalty/interest/charges, if any, for which the petitioner is ready to pay.

5. Mr. Vikas Kumar, learned counsel for the State submits that if the petitioner is ready to deposit the taxes with all penalty, interest and charges, there is no hurdle in his way. Learned counsel submits that the petitioner is under obligation to discharge its tax liability and nothing prevents it from paying the same in accordance with the provisions under law. It is further pointed out that the cancellation of the registration does not prevent the petitioner from discharging his tax liability and from the statement of tax present in the writ application itself, it would appear that petitioner has discharged its liability partially on 27.02.2024.

6. In paragraph '14' of the counter affidavit, it has been made clear that the Circular No. 238/32/2024 dated 15.10.2024 would not be relevant and applicable in the case of the petitioner. It is stated that the said circular pertains to the waiver of interest and penalty pertaining to the year 2017-18, 2018-19 and 2019-20 whereas the demand raised against the petitioner pertains to the year 2021-22. It is also submitted that by filing the present writ application, the petitioner is, in-fact, seeking appeal/review the order of this Court passed on 08.07.2024 in C.W.J.C. No. 10212 of 2024 whereunder the cancellation of the registration of the petitioner is upheld. The

stand of the Department as disclosed in paragraph '14' of the counter affidavit has not been contested by filing any rejoinder to the said counter affidavit, therefore, this Court finds that the issues involved in the writ application would be set at rest by simply observing that the petitioner, if willing to discharge its liability is free to deposit the amount with the Department in accordance with law and if the deposits are offered by the petitioner, the Department shall accept the same towards the discharge of the liability of the petitioner.

7. This writ application stands disposed of

(Rajeev Ranjan Prasad, J)

(Ramesh Chand Malviya, J)

Sunnykr/-

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