

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.455 of 2021

Expression Buildtech Pravate Limited a Company incorporated under the Companies Act, Having its Office at 2nd Floor Sheohar Sadan, Fraser Road Patna 800001 through its Director Kshitji Kumar Tiwary (Male Aaged about 28 Years) Son of Shri Kamlesh Tiwari resident of 2/9 Tiwari House, Vivekanand Park, Patliputra Colony, PO and PS Patliputra, District Patna.

... .. Petitioner/s

Versus

1. Union of India through the Designated Committee Having its Office at Central Revenue Building Bir Chand Patel Path, Bailey Road, Patna-800001.
2. Principal Commissioner of Central Excise and Service Tax, having its Office at Central Revenue Building Bir Chand Patel Path, Bailey Road, Patna-800001.
3. Commissioner of Central Excise and Service Tax. Having its Office at Central Revenue Building Bir Chand Patel Path, Bailey Road, Patna-800001.
4. Directorate General of GST intelligence, Zonal Unit, Patna having its Office at Type IV/03, Central Revenue Colony, Salimpur Dumara, Ashiana Digha Road, Patna-800025.
5. Addl. Directorate General of GST Intelligence, Zonal Unit, Patna having its Office at Type IV/03, Central Revenue Colony, Salimpur Dumara, Ashiana Digha Road, Patna-800025.
6. Senior Intelligence Officer, DG GI, Patna Zonal Unit.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.D.V.Pathy, Advocate

For the Respondent/s : Dr.K.N.Singh, A.S.G.
Mr. Anshuman Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)



Date : 10-01-2022

Petitioner has prayed for the following relief(s):-

- i) the order dated 20.02.2020 (as contained in Annexure-5) passed by the respondent no.1 overstating the declared tax liability and there by rejecting the application for settlement of dispute under the Sabka Viswas (Legacy Dispute Resolution) Scheme, (hereinafter called the Scheme) 2019 be quashed.
- ii) the respondent no.1 be directed to settle the dispute and issue requisite certificate under the aforesaid Scheme.
- iii) for granting any other relief (s) to which the petitioner is otherwise found entitled to.

Petitioner lays challenge to the order dated 20.02.2020 whereby petitioner's application for resolution of disputes under "Sabka Viswas (Legacy Dispute Resolution) Scheme, 2019" stands rejected.

Inviting attention to the provisions of the said Scheme and more specifically Clause 127, Shri D.V.Pathy, learned counsel for the petitioner submits that in view of the document generated by the Revenue (Annexure-2) indicating deposit of Rs. 72,50,000/- (approx.), the Designated Committee constituted under the said Scheme was only to accept the declaration submitted by the



petitioner, thereafter, issue a certificate in terms of sub-clause (2) of Clause 127. However, ignoring the contents of Annexure-2 as also Annexure-3 to similar effect, the appropriate authority has issued the impugned order dated 20.02.2020, Annexure-5, Page 41. We notice that in this document, there is a discrepancy inasmuch as the amount of Rs. 72,50,000/-, referred to in Annexure-2 and Annexure-3 (both that of the Revenue) is not reflected therein.

Defending the action, Shri Anshuman Singh, learned counsel for the Revenue invites our attention to the proceedings initiated by the Directorate General of G.S.T. Intelligence, Zonal Unit, Patna (Annexure-1) as also the contents of Annexure-3, whereby the petitioner was asked to submit certain documents.

We are of the considered view that initiation/pendency of proceedings pursuant to Annexure-1, perhaps, may pale into insignificance in view of the Scheme which came, subsequently into effect from September, 2019. This Dispute Resolution Scheme is in the nature of amnesty. In any case Annexure-3 does not indicate what all documents were required to be furnished, for as we comprehend from



the material placed on record and more so, the documents generated by the Revenue, petitioner had deposited a sum of Rs. 72,50,000/-, which was not reflected in the impugned order, unlike the previous documents generated from the Revenue's portal.

However, we find favour with one submission made by Shri Anshuman Singh and that being the admissibility of the Right and applicability of the Scheme qua the petitioner, for we notice in view of Clause 125, the Scheme excluded certain category of persons. Though the order does not specifically deal with this aspect but however in the counter affidavit there is an oblique reference to such fact.

Any which way, we are of the considered view, to which the petitioner is in agreement that with the setting aside the impugned order, the matter can be remanded to the appropriate authority for consideration afresh, in accordance with law, on all issues of fact and law.

Ordinarily, we would have closed the matter here but in the light of Clause 125 of the Scheme, we quash the impugned order dated 20.02.2020, Annexure-5, Page 41



and remand the matter to the Designated Committee, so defined under the Scheme, for passing an appropriate order in accordance with the Scheme.

Shri D.V.Pathy states that the petitioner shall appear before the said Committee on 25.01.2022, on which date, all documents required for availing benefit under the Scheme shall be made available.

Petitioner, through learned counsel, undertakes to fully co-operate and not take any unnecessary adjournment.

We direct the Designated Committee to take an appropriate decision in terms of the Scheme positively within a period of four weeks thereafter.

Liberty reserved to the petitioner to take recourse to such remedies as are otherwise available including one provided under Clause 128 of the Scheme.

Since, petitioner had availed the Scheme within time, the mere fact that the Scheme is no longer operation, would not come in the way of the authority, taking an appropriate decision in accordance with law.

We are only hopeful that the authority shall



take a stand, which advances the cause of action.

The petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2022
Transmission Date	

