IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7808 of 2020

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M/s Sri Sai Industries, through its Proprietor having its office at Poiwa Pachrukhiya Road, Village - Dehri, P.O.- Poiwa, Aurangabad - 824101, through its Proprietor Laxmi Prasad, aged about 53 years S/o Late Gupteshwar Ram, resident of village - Nawadih Road, P.S.- Aurangabad, District- Aurangabad.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum- Principal Secretary, Commercial Tax Department, Government of Bihar.
2. The Commissioner-cum- Principal Secretary, Commercial Tax Department, Government of Bihar.
3. Joint Commissioner of State Tax Aurangabad, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Advocate Mr.Abhishek Kumar, Advocate
For the Respondent/s	:	Mr.Lalit Kishore (AG)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 21-09-2020 Petitioner has prayed for the following relief(s):

> "a. For issuing writ/writs, order/orders quashing the Demand Order (Summary of Order) dated 29.06.2020 issued in FORM GST DRC – 07 having order No. 217 issued by Respondent No.3.
>
> b. For issuing writ/writs, order/orders including the writ of certiorari directing the Respondents to produce the assessment order passed by them relevant to this case and quash the same.
>
> c. For issuing writ/writs, order/orders including the writ of certiorari and thereby quashing the notice dated 09.11.2019 on the grounds that it has not complied with Section 74 of

the CGST Act and thereby not giving reasonable opportunity to the petitioner to show cause as to why he should not pay the amount specified in the notice.

d. For issuing writ/writs, order/orders thereby staying the Demand Order (Summary of Order) dated 29.06.2020 issued in FORM GST DRC – 07 having order No.217 issued by Respondent No.3 till the pendency of the proceedings.

e. For directing the Respondents not to take any coercive action against the petitioner untile the pendency of the proceedings.

f. For holding the proceedings under Section 74 of the CGST Act cannot be initiated without serving a proper notice which complied with Section 74(1) of the CGST Act.

g. For holding that any general show caused notice cannot be deemed to be issued under Section 74(1) of the CGST Act.

h. For holding that any notice issued under Section 74 of the CGST Act has to necessarily mention that the notice has been issued under the said section.

i. For holding that any notice issued under Section 74 of the CGST Act has to necessarily specify the amount along with interest and amount of Penalty proposed to be imposed in the notice itself.

j. For holding that no proceedings can take place for the offence of suppression of turnover under the CGST Act before the Petitioner declared its annual turnover by filing its annual returns.

k. For holding that the demand for tax, interest and penalty has been raised from the petitioner in violation of principles and natural justice.

l. To pass any other order/orders which it may deem fit in the facts and circumstances of the

> case and within the ends of equity, justice and good conscience."

Shri Pawan Kumar, learned counsel for the State states that there were prior proceedings which led to the issuance of impugned demand notice dated 29.06.2020 (Annexure-P/2).

If that be so, we are not inclined to examine the statement made by the petitioner, factual in nature. The petitioner has equally efficacious remedy in law under the CGST Act.

At this stage, learned counsel for the petitioner states that if petitioner is supplied copy of the order, he shall take recourse to alternate measures.

Shri Pawan Kumar states that copy of the order shall positively be supplied to learned counsel for the petitioner by tomorrow, enabling the petitioner to prefer an appeal/revision.

As such, we dispose of the present petition in the following terms:

(a) copy of the order passed by the authorities, leading to the passing of the order of demand shall be supplied to the petitioner, through his counsel, by tomorrow;

(b) as and when petitioner takes recourse to remedy under the law, the adjudicatory authority shall positively decide the matter expeditiously and preferably within a period of three months;

(c) parties undertake to cooperate and not take unnecessary adjournment;

(d) all issues on merits are left open.

(Sanjay Karol, CJ)

(S. Kumar, J)

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