IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (T) No. 3517 of 2019

Mahadeo Construction Co., Palamau …. …. Petitioner

Versus

The Union of India, and Ors. …. …. Respondents

CORAM: HON'BLE MR. JUSTICE H.C. MISHRA
HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : M/s. Sumeet Gadodia, Advocate
For the Respondents : M/s. Ratnesh Kumar, Advocate

03/ 24.07.2019. Learned counsel for the Central Goods & Services Tax (CGST), prays for time for filing a detailed counter-affidavit in the matter.

In the present case the petitioner has been saddled with the interest amount of Rs.19,59,721/- for filing the delayed GSTR-3B Returns for the period of February and March, 2018. The screen shots of the GSTN Portal has been brought on record by way of Annexures-4 and 4/1 to the writ application, which show that the due date for payment of the return for the months of February 2017-2018 and March 2017-2018, was 31.03.2019. Those screen shots have not been denied by the learned counsel for the CGST.

This is also an admitted fact that the return for both the months had already been filed by the petitioner on 21.09.2018 and 23.09.2018 respectively. In spite of that, by order dated 18.03.2019 the petitioner has been saddled with a total interest of Rs.19,59,721/- for filing the delayed GSTR-3B. During the pendency of this writ application, the bank account of the petitioner has also been attached pursuant to an order dated 22.05.2019, for non-payment of the amount of interest, by the competent authority, which has been brought on record by way of a supplementary affidavit, as Annexure-10.

It is the case of the petitioner that the interest has been levied upon the petitioner without entering into the adjudicatory process as required under Section 73 of the CGST Act 2017, against which the petitioner has also a remedy of appeal under Section 107 of the aforesaid Act. A Notification No. 76/2018 dated 31st December, 2018, has also been brought on record by way of Annexure-3 series, which shows that the amount of late fee payable under Section 47 of the said Act, shall stand waived for the registered persons who failed to furnish the return in Form GSTR-3B for the months of July, 2017 to September, 2018 by the due date, but furnishes the same between the period from 22nd December, 2018 to 31st March, 2019. It is an admitted position that the returns had been filed by the petitioner prior to this period.

Learned counsel for the CGST submitted that this notification is only for the waiver of the late fee and not for the interest.

As prayed for, learned counsel for the CGST is allowed four week's time to file the detailed counter-affidavit in the matter.

Till then, the operation of the order dated 22.05.2019, as contained in Annexure-10 to the supplementary affidavit, shall remain stayed.

In the meantime the respondent authorities shall also be at liberty to undertake the adjudicatory process under Section 73 of the CGST Act, if they are so advised.

Put up the matter on 28.08.2019, awaiting the counter-affidavit in the matter.

(H.C. Mishra, J.)

(Deepak Roshan, J.)

D.S.