

(2021) 10 PAT CK 0043

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 18285 Of 2021

M/S B.A. Constructions

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision: Oct. 27, 2021

Hon'ble Judges: Sanjay Karol, CJ; A. M. Badar, J

Bench: Division Bench

Advocate: Gautam Kejriwal, Sumeet Kumar Singh, Dr. Krishna Nandan Singh, Anshuman Singh, Sriram Krishna

Final Decision: Disposed Of

Judgement

Heard learned counsel for the parties.

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

We are of the considered view that the issue raised in the present petition can be considered and dealt with, efficaciously by an authority constituted

under the provisions of the Act.

In the attending facts and circumstances, since the issue pertains to Financial Year 2013-2014, we dispose of the present petition in the following

terms, leaving all questions of fact and law open, to be adjudicated by the Appellate Authority:-

(a) Petitioner is directed to prefer an appeal against the impugned order dated 27.11.2020, passed by respondent no.2, the Assistant Commissioner,

Central GST & CX, Gaya Division, District-Gaya, in Order Original No. 11/Asst. Commissioner/Service Tax/Gaya/20-21 (Annexure-P/4) as also the

order dated 22.7.2021 passed by the Superintendent, CGST & CEX Range, Sasaram (Annexure-P/5);

(b) The Appellate Authority shall positively consider and decide the appeal on merits, in accordance with law, expeditiously and preferably within a period of three months thereafter, after complying with the principles of natural justice;

(c) The issue of limitation shall not come in the way of the Appellate Authority in considering and deciding the appeal on merits, in accordance with law.

(d) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(e) Shri Anshuman Singh, learned counsel for the respondents states that till such time the appeal is filed, no coercive action shall be taken against the petitioner.

(f) The Appellate Authority shall pass an order only after affording adequate opportunity to all concerned, including the writ petitioner;

(g) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(h) The Appellate Authority shall positively decide the appeal on merits expeditiously, preferably within a period of three months from the date of filing the appeal;

(i) The Appellate Authority shall pass a speaking order assigning reasons, copy whereof shall be supplied to the parties;

(j) Liberty reserved to the petitioner to challenge the order, if required and desired;

(k) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(l) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(m) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

(n) We have not expressed any opinion on merits and all issues are left open;

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.