

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6001 of 2022

=====

M/s Biswas Security Services India Pvt. Ltd. Jamuna Apartment, Boring Road, Shop No.3, Patna, through its Director Binod Kumar Sinha, aged about 64 years, Male, Son of Sr Ramabatar Singh, Resident of Shakti Kunj Darbhanga Kothi, 7 MF 5/1, Bahadurpur Housing Colony, B.H. Colony, Patna, Bihar- 800026, P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India Department of Finance, Govt. of India, New Delhi.
2. The Principal Commissioner, CGST and Central Excise Department of Central Excise, C.R. Building, Patna, Bihar.
3. The Additional Commissioner, CGST and Central Excise Department, Patna-1.
4. The Superintendent (TFC), Central GST and Central Excise (H), Patna-1.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mrs. Archana Meenakshee, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-05-2022

Heard learned counsel for the parties.

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

- (a) For issuance of a writ in the nature of certiorari quashing Show Cause Notice C.No.V(141) Patna Central SCN Cell/Adjn/(H)/2019/1336 dated 22.04.2019.
- (b) For holding and declaring that the SCN dated 22.04.2019 is barred by limitation as section 73 of Chapter V of the Finance Act, 1994 lays down a time limit of 30 months i.e. 2½ years.



- (c)** For holding and declaring that Respondents have wrongly invoked the extension clause provided under proviso to section 73 of Chapter V of the Finance Act, 1994 .
- (d)** For holding that in the light of Apex Court's judgment in M/s Cosmic Dye Chemical Vs. Collector of Central Excise Bombay 1995 (75) E.L.T. 721(SC) the burden is on the Respondents to prove any of the five elements to uphold validity of an extended period of five years.
- (e)** For declaring that the petitioner has intimated the Respondents as regard the change of address of his Principal place of business before issuance of Show Cause Notice.

After the matter was heard for some time, learned counsel for the petitioner fairly submits that petitioner be permitted to respond to the show-cause notice, subject matter of challenge in the present petition, allowing all pleas to be taken therein.

Liberty as prayed for is granted.

The instant petition stands disposed of on the following terms:-



(a) Petitioner shall appear before the authority concerned on 16th of May, 2022;

(b) Petitioner shall fully cooperate in the proceedings and file response;

(c) Petitioner's case shall be decided by the appropriate authority, in accordance with law, within a period of two months thereafter;

(d) Till such time the proceedings are pending, no coercive action shall be taken against the petitioner.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2022
Transmission Date	

