(2019) 07 PAT CK 0133

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 11722 Of 2019

M/S Laxmi Enterprises — APPELLANT

Vs

Union Of India Through And Ors — RESPONDENT

Date of Decision : 08-07-2019

Acts Referred:
Finance Act, 1994 — Section 72

Citation : (2019) 07 PAT CK 0133

Hon'ble Judges : Jyoti Saran, J;Partha Sarthy, J

Bench : Division Bench

Advocate : Amit Pandey, S.D. Sanjay, Alok Kumar Agarwal

Final Decision : Disposed Off

Judgement

Heard Mr. Amit Pandey, learned counsel appearing for the petitioner and Mr. S.D. Sanjay, learned Additional Solicitor General who appears with Mr. Alok Kumar Agarwal for the Central GST and Central Excise department, Patna.

The petitioner is aggrieved by the demand cum show cause notice dated 01.04.2019 issued under the signature of the Deputy Commissioner, Central GST and Central Excise, Patna (Central) Division, Patna raising a demand of Rs.10,98,436/-payable by the petitioner which assessment is founded on an exercise made under section 72 of the Finance Act, 1994 i.e. by way of best judgment assessment.

As to why the exercise of power is resting on best judgment assessment would be confirmed from the explanation given in the order and which has persuaded the Assessing Authority to proceed likewise, however, since the demand in question is only a primafacie impression at the hands of the department and the petitioner has been allowed opportunity to rebut the same, all issues as raised in this writ petition can well be raised before the Assessing Authority including the foundation for such initiation.

Since the time allowed in the demand cum show cause notice to respond to the same has long expired, we allow the petitioner to file his reply to the demand cum show cause notice within four weeks from today i.e. by 5th of August, 2019 when the petitioner would appear before the Deputy Commissioner, CGST, Patna (Central) Division, Patna along with his response and whereupon the matter would be disposed of in accordance with law by the said authority after opportunity of hearing to the petitioner or his representative.

With the observation above, we dispose of this writ petition.

We would make it clear that we have not expressed any opinion on the merits of the case and the parties would be at liberty to support their stand before the statutory authority.

