

Ex-parte orders passed are in violation of the principles of natural justice and entails civil consequences

The Hon'ble Patna High Court in ***National Co-operative Consumer Federation of India Limited v. State of Bihar [Civil Writ Jurisdiction Case No.16790 of 2022 dated December 9, 2022]*** set aside the ex-parte rejection orders passed by the Revenue Department, owing to the violation of natural justice principles.

Facts:

This petition has been filed by National Co-operative Consumer Federation of India Limited (“**the Petitioner**”) challenging four ex-parte appeal orders, summary orders issued in form GST DRC-07 (“**the Impugned Orders**”) passed by the Revenue Department (“**the Respondent**”). The Petitioner submitted that the Impugned Orders passed were in violation of principles of natural justice.

Issue:

Whether the ex-parte Impugned Orders passed by the Respondent were in violation of principles of natural justice?

Held:

The Hon'ble Patna High Court in ***Civil Writ Jurisdiction Case No.16790 of 2022*** held as under:

- Noted that, the Impugned Orders appeared to be ex parte in nature, which is bad in law due to the reasons of violation of the Principles of Natural Justice i.e. Fair opportunity of hearing. Also, sufficient time was not given to the Petitioner to represent its case and Impugned Orders passed ex parte in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee.

- Held that, ex-parte Impugned Orders passed are in violation of the Principles of Natural Justice, entails civil consequences.
- Stated that, the Respondent should not have adjudicated the matter on the attending facts and circumstances and all the issues of fact and law ought to have been dealt with, even if the proceedings were ex parte in nature.
- Further held that, opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials.
- Quashed and set aside the Impugned Orders
- Directed as under:
 - To immediately de-freezing/de-attaching of the bank account(s) of the Petitioner, if attached.
 - The Respondent shall decide the case on merits expeditiously, within a period of 2 months from the date of appearance of the petitioner, after complying with the principles of natural justice and pass a speaking order assigning reasons.
 - no coercive steps shall be taken against the Petitioner, during pendency of the case
 - The Respondent shall pass a fresh order only after affording adequate opportunity to all concerned, including the Petitioner;

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