

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3060 of 2025

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Shashi Kant Singh, S/o Jagat Narayan Singh, Resident of Veer Basawan Singh Nagar, Rukunpura, Bailey Road, District- Patna (800014), Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Directorate General of Systems and Data Management, Central Board Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
3. The Indian Customs Electronic Data Interchange Gateway (ICEGATE), through its Principal Additional Director General, Central Board Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
4. The Principal Additional Director General, Indian Customs Electronic Data Interchange Gateway (ICEGATE), Central Board Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, Government of India, New Delhi.
5. The State Bank of India, through its Branch Manager, BSEB Branch, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Kumaresh Singh, Advocate
For the UOI	:	Dr. Anjani Prasad Singh, C.G.C.
For R-2 to 4	:	Mr. Anshuman Singh, Sr. SC
For the SBI	:	Mr. Alok Kumar Agrawal, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 28-09-2026 Heard Mr. Kumaresh Singh, learned counsel for the petitioner, learned counsel for the Union of India and Mr. Anshuman Singh, learned counsel for the respondent nos.2 to 4 as also Mr. Alok Kumar Agrawal, learned counsel for the State Bank of India.



2. This writ application has been filed seeking the following reliefs:-

- "i. Issuance of direction, order or writ, including writ in the nature mandamus commanding the concerned respondents for refund of Rs.1,24,175/- alongwith interest @ 18%, as the same was paid twice vide the ICEGATE portal, against the payment made as pre-deposit for preferring Appeal no.85/Pat/S.Tax/Appeal/2023-2024 before Commissioner (Appeals) of Customs, Central GST & Central Excise, Patna.
- ii. Issuance of direction, order or writ, including writ in the nature mandamus commanding the concerned respondents to make payment of interest @ 18% per annum compounded annually from 16.06.2023 up to date.
- iii. To adjudicate and hold that the payment of the petitioner has been held up by the respondents for no fault on his behalf.
- iv. Any other relief/reliefs that the petitioner may be found entitled to in the facts and circumstances of the present case."

3. The facts are not in dispute. It is an admitted position that the petitioner being aggrieved by the order dated 14.09.2022 passed by the Joint Commissioner, CGST and CX, Patna-1 determining and confirming the demand of service tax and cesses at Rs.16,55,665/-, chose to prefer an appeal before the Commissioner (Appeals) of Customs, Central GST & Central Excise, Patna vide Appeal No.85/Pat/S. Tax/Appeal/2023-2024 on 14.11.2022 within the stipulated period of limitation.

4. It is the simple case of the petitioner that to fulfill



the requirement of a pre-deposit @ 7.5% of the demand for purpose of preferring an appeal, the petitioner deposited a sum of Rs.1,25,175/- on 16.06.2023 vide ICEGATE Portal (Indian Customs Electronic Gateway) through SBI Internet Banking vide Account No.000 000 3745 30 96340 of the State Bank of India, BSEB Patna Branch. The amount got deducted from his account. The petitioner, however, received a prompt/message on the ICEGATE portal which read "client does not exist ICEGATE. Bank provides wrong client ID (061620230 85615131)". It is stated that there was no acknowledgment whether the payment was successfully received or not. Consequently, the petitioner immediately contacted the toll free number of ICEGATE and lodged a complaint upon which the ICEGATE representative assured that the payment will be refunded within 72 hours. Since the petitioner did not receive any acknowledgment/confirmation of the payment made by him and the last date for making payment of the pre-deposit was approaching, the petitioner, having left with no alternative made the second payment of the same amount through RTGS from SBI, BSEB Branch bearing Account No.000 000 3745 30 96340 on the same date and the said amount was credited in the Account No.3144 5913 298 CBEC e-FBB Centur Hotel Branch,



New Delhi. The payment details of both the payments have been enclosed by the petitioner vide Annexure-P/4 and P/5 respectively.

5. Learned counsel for the petitioner submits that since the petitioner came to know later on that both the payments were credited to the account of the department, the petitioner lodged his grievance on the CPGRAMS portal which is known as Centralized Public Grievance Redress and Monitoring System. After two months, the petitioner received the following response:-

"In this regard as informed by the RBI Team, it is informed that the mentioned payment, i.e., Rs.1,24,175/- was not received from the Banks end. Therefore, user is advised to contact the concerned bank for further assistance."

6. This situation was brought to the notice of the bank vide email (Annexure-P/9). A legal notice was also sent to the respondents. The bank, however, vide e-mail dated 02.09.2023 informed that the payment made through SBI Internet Banking was duly received by the ICEGATE and credited in the account No.3144 5913 298 CBEC e-FBB Centur Hotel Branch, New Delhi (Annexure-P/4). It is submitted that the department received the payment on account of the mandatory requirement for filing of the appeal, twice but did not refund the payment despite the complaint made and in this way, the money



belonging to the petitioner has been kept and utilized by the department during all this periods. Ultimately, finding no other way out, the petitioner has approached this Court.

7. We find from the records that even as the facts are admitted, the respondent nos.1, 2, 3 and 4 chose to not only file a counter affidavit but to take a plea in the garb of Section 11(B) of the Central Excise Act, 1944 (hereinafter referred to as the 'Act of 1944'). Mr. Anshuman Singh, learned counsel for the respondent nos.2 to 4 has taken us through Section 11(B) of the Act of 1944 which is said to have been made applicable to the service tax refund matters also.

8. On a bare reading of Section 11(B) of the Act of 1944, we took a view that it would not apply in the case of the petitioner. The very opening line of sub-section(1) of Section 11 (B) talks of the claim towards refund of any duty of excise and interest, if any, paid on such duty. It provides for the procedures by way of filing of an application for refund. In fact, Mr. Anshuman Singh took a plea that the petitioner should have made an application under this provision for the purpose of getting refund.

9. Soon, as we did not agree with the submissions that Section 11(B) of the Act of 1944 would be applicable in this



case, learned counsel for the respondent nos.2 to 4 submits that, in such circumstance, this Court may issue appropriate order.

10. Having regard to the entire facts and circumstances of the case, the admitted facts available in the pleadings of the parties and looking into the kind of response submitted by the answering respondents in their counter affidavit, this Court is of the considered opinion that the department has not shown its bonafide by keeping the matter pending at their end. The things were very simple and immediately after finding the complaints the department was required to refund the money which was deposited twice, but instead the department chose to file a counter affidavit in the garb of Section 11(B) of the Act of 1944.

11. Learned counsel for the petitioner has brought to the notice of this Court the Circular No.984/08/2014-CX dated 16.09.2014 and the judgment of the Hon'ble Supreme Court in the case of **Union of India Vs. Suvidhe Ltd.** reported in **(2016) 11 SCC 808** wherein it has been held that pre-deposit was not a payment of duty but only for availing the right to appeal and thus in respect of deposit made under Section 35F, provisions of Section 11(B) can never be applicable.

12. We find that the department of CGST and CX has



no answer to this.

13. In result, we direct the respondent nos.2 to 4 to refund Rs.1,24,175/- together with interest at the rate of 12% per annum from the date of second receipt till the date of payment, within a period of four weeks from today. Since we have found that in this case the petitioner has been unnecessarily compelled to approach this Court by way of this writ application and even in this Court the department did not take a bonafide plea, we direct payment of cost of litigation assessed at Rs.25,000/- which will be paid by the aforesaid respondents together with the other payments within the given period of four weeks. The respondents shall be at liberty to find out at whose level the matter remained pending and the refund was not processed. The money awarded on account of interest and cost shall be recovered from the erring officials.

14. This writ application stands allowed.

(Rajeev Ranjan Prasad, J)

(Sunil Dutta Mishra, J)

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