IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3737 of 2016

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Kezstroy Services Infrastructure India Pvt. Ltd. presently known as KSS Private Limited " A company Incorporated under the Companies Act , 1956, having its registered office at C/o Shree Cement Limited Cement Plant near Jasoiya More, Aurangabad PO & PS Aurangabad District Aurangabad. through authorised signatory Gangadhar Rao, (Senior Managar) S/o S. Vankat Rao (Sr Manager), presently resident of Mohalla- J-3 175 Delhi Development Authority (DDA), Flats Kalkaji New Delhi -19

.... Petitioner

Versus

1. The State of Bihar , through the Commissioner, Commercial Taxes, Bihar, Patna having its office at Vikash Bhawan, Bailey Road, Patna.
2. Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna.
3. Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
4. Assistant Commissioner of Commercial Taxes, Special Circle ,Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prabhash Ranjan Thakur, Advocate
For the Respondent/s : Mr. Ranjeet Kumar, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 23-02-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The petitioner seeks stay of the notice dated 12.1.2016 for Rs.1,17,23,358/- issued under Section 47 of the Bihar Value Added Tax Act by the Assistant Commissioner, Commercial Taxes, Special Circle, Patna whereby it is sought to recover Rs.1,17,23,358/- from the petitioner for the period 2013-14.

It is submitted by learned counsel for the petitioner that as against the assessment order dated 28.2.2015 and the demand notice dated 3.3.2015 the petitioner had already filed an appeal before respondent No.2, the Joint Commissioner, Commercial Taxes (Appeal), Central Division, Patna and the same is still pending. It is also submitted that the petitioner has already deposited an amount of approximately Rs.1,10,68,402/- as against the total tax demanded of Rs.2,27,91,760/- which is under challenge before the appellate authority. It is thus submitted that for the said reason the petitioner had not earlier applied for stay under the impression that the tax authorities having received a substantial amount of tax would not proceed for forcible recovery of the remaining amount but having received the impugned notice dated 12.1.2016 the petitioner filed an application for stay before the appellate authority on 23.1.2016 but no order has been passed upon the same.

On a consideration of the entire facts and circumstances of the case, it is directed that the Joint Commissioner, Commercial Taxes (Appeal), Central Division, Patna shall consider and dispose of the stay petition filed by the petitioner within a period of two weeks from the date of receipt/production of a copy of this order. Until the decision on the stay petition, the impugned notice dated 12.1.2016 shall be kept in abeyance.

It is made clear that the petitioner shall present itself before the appellate authority on 17th March, 2016 at 11 A.M. along with a copy of this order so that the matter can be proceeded with without issuance of any notice to the petitioner.

The writ application is, accordingly, disposed of with the aforesaid observations and directions.

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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