IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17239 of 2018

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Ircon International Ltd., a Company incorporated under the Companies Act 1956 having its office at Sone Annexe Bhawan, Bir Chand Patel Path, Patna through its Joint General Manager (Finance) Rahul Kumar, Son of Shri Mahendra Mishra, Resident of Flat No.303, RKM Regency, Ram Nagri, P.O.- Ashiana P.S. Rajeev Nagar, District- Patna.

... ... Petitioner/s

Versus

1. State of Bihar through Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Assistant Commissioner of Sales Taxes, West Circle, having its office at Kautilya Bhawan, Anta Ghat, Patna.
3. Commercial Taxes Officer, West Circle, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy, Advocate
: Mrs. Manju Jha, Advocate
: Mr. Sadashiv Tiwary, Advocate
For the Respondent/s: Mr. Anil Kumar Sinha - Ga1

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-08-2018

What is challenged in the present petition under Article 226 of the Constitution of India is the order of attachment of the bank account of the petitioner by the respondent authorities in exercise of power under Section 47 of the Bihar Value Added Tax Act (hereinafter referred to as “the Act”).

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It appears that instead of preferring an appeal under Section 72 of the Act, the petitioner has preferred the revision application before the Commissioner.

Learned counsel appearing on behalf of the petitioner, therefore, seeks permission to withdraw the revision application before the Commissioner with liberty to prefer an appeal before the first Appellate Authority under Section 72 of the Act with the deposit of 20% of the amount under the assessment order as required under Section 72 of the Act. Learned counsel has stated at the Bar that such appeal shall be filed within a period of one week from today. He has further stated that along with the appeal and with deposit of 20% as pre-deposit as required under Section 72 of the Act, the petitioner shall also file a stay application which may be directed to be considered by the appellate authority at the earliest. He has requested that till stay application is decided, the impugned order be kept in abeyance. The aforesaid seems to be reasonable.

In view of the above, the present petition shall stand disposed of by permitting the petitioner to withdraw the revision application which has been preferred against the assessment order with liberty to prefer an appeal under Section 72 of the Act before the first Appellate Authority with 20% of the pre-deposit as

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required under Section 72 of the Act, to be filed within a period of one week from today. Along with the appeal, the petitioner may also prefer the stay application. As and when stay petition is preferred, after complying with the provisions of Section 72 of the Act (20% as pre-deposit), the first Appellate Authority to consider the stay application in accordance with law and on merit within a period of six weeks thereafter. Till an appropriate order is passed on the stay application, considering the fact that the petitioner is to deposit 20% of the liability under the assessment order and the petitioner is a government company, the impugned order is directed to be kept in abeyance. However, the same shall be subject to the order that may be passed by the first Appellate Authority on the stay application.

With this, the present application stands disposed of.

(Mukesh R. Shah, CJ)

(Dr. Ravi Ranjan, J)

Vikash/V.K. Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2018
Transmission Date	NA

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