IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7716 of 2019

==

1. Progressive Constructions Limited, a company registered under the Companies Act, 1956 having its registered office at 7th Floor, Raghav Ratna Towers Chirag Ali Lane Abids Hyderabad and Branch Office at B.V. Ganj Bhagwanpur, Muzaffarpur through Accounts Manager Nageswara Rao Korrapati, son of Late Seshaiah, resident of 3-94 P.O. K. Takkellapadu, P.S. N.G Padu Kothakota, District Prakasam, Andhra Pradesh.
2. Progressive- MVR JV a Joint Venture having its registered office at 7th Floor Raghav Ratna Towers Chirag Ali Lane Abids Hyderabad and Branch Office at B.B. Ganj Bhagwanpur, Muzaffarpur through Accounts Manager Nageswara Rao Korrapati, son of Late Seshaiah, resident of 3-94 P.O. K. Takkellapadu, P.S. N.G Padu Kothakota, District Prakasam, Andhra Pradesh.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Taxes, Bihar, Patna having its office at Vikash Bhawan, Bailey Road, Patna.
2. Joint Commissioner of Commercial Taxes (Appeal) Tirhut Division, Muzaffarpur.
3. Asst. Commissioner of State Taxes, West Circle, Muzaffarpur.

... ... Respondent/s

==

Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Adv.
For the Respondent/s : Mr. Pawan Kumar, AC to GA-1

==

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 18-04-2019

It is not in dispute that this order under challenge is on remand made by the Appellate Authority. According to Mr. D.V. Pathy, learned counsel appearing for the petitioner, it is in the teeth of the judgment of the Supreme Court passed in the case of **State of Andhra Pradesh and others versus Larsen and Tourbo Ltd. and others** since reported in **(2008) 17 VST 1 (SC)**.

Opposing the submission, it is countered by Mr. Pawan Kumar, learned Assisting Counsel to Government Advocate no.1 that in case the petitioner is aggrieved by the order of the Assessing Authority passed on remand, the remedy is available to him before the Appellate Authority and he cannot be permitted to by-pass the statutory ladder so available under the Bihar Value Added Tax Act, 2005 (hereinafter referred to as ‘the Act’).

The objection is well taken and since there is no dispute that the order impugned is passed on remand made by the Appellate Authority, it would be advisable to the petitioner to first exhaust the statutory remedy so available to him under ‘the Act’.

It is stated by Mr. D.V. Pathy, learned counsel appearing for the petitioner that the limitation period has expired in the meanwhile.

It goes without saying that should the petitioner prefer statutory remedy so available to him within a period of six weeks from today and such application or appeal as the case may be, is accompanied with a petition for condonation of delay, the concerned authority shall consider and dispose of the same on its own merits bearing in mind that the petitioner was prosecuting his remedy before the High Court.

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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Anjula/skpathak

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2019
Transmission Date	NA