IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7074 of 2019

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Pravin Electricals Pvt. Ltd. having its registered office at E-5/2, First Floor, Highland Park, Jai Shastri Nagar Mulund Colony, Mulund (W), Mumbai through its General Manager Rajendra Katdare, son of Late W.C. Katdare, resident of 202 C- 3, 2nd Floor Swastik Park Azad Nagar, Near Bramhand, Kolshet, Thane West, Thane- Maharastra.

... ... Petitioners

Versus

1. The State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Addl. Commissioner of State Tax (Appeal), Central Division, Patna.
3. Dy. Commissioner of State Tax Special Circle, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Adv.
		Ms. Manju Jha, Adv.
For the Respondent/s	:	Mr.Vikash Kumar, SC11

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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

Heard Mr. D.V.Pathy, learned counsel for the petitioner and Mr. Vikash Kumar, learned SC-11, for the State.

In the nature of the order that we propose to pass we do not need to delve into the merits of the case. Suffice it to say, that the appeal is not being heard by the Appellate Authority i.e. respondent no.2, Addl. Commissioner of State Tax (Appeal), Central Division, Patna because he directs for payment of 40% of the tax amount and 30% of the penalty and interest amount which comes to about 36.70%, of the disputed tax amount for the purpose of interim stay.

It is not in dispute that the petitioner has already deposited 20% of the appeal amount as mandated under section 72(2) of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as 'the Act'). As regarding the amount in dispute, it is the submission of Mr. Pathy that the goods in question have already suffered tax at the entry point under the provisions of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 and the Rules framed thereunder and acknowledgment of which is present at Annexure 5 which is to the tune of about 1.87 crores and which is far beyond the amount so demanded by the Appellate Authority.

Since the position as regarding the deposit of the entry tax amount albeit by the South Bihar Power Distribution Company Ltd., is not in dispute, the issue is whether in addition to the amount deposited by way of entry tax, the petitioner is liable for any further tax, and which is the subject matter of discussion before the appellate authority. The goods in question have suffered entry tax at the time of entry, at the hands of the South Bihar Power Distribution Company Ltd. and this amount of entry tax suffered by the goods in question is more than the amount demanded by the Appellate Authority in the order dated 25.3.2019. We thus by following the order of this Court in the case of **M/s Kanhaiya Traders v. the State of Bihar & ors.**, since reported in 2016 (3) PLJR 205, direct the Appellate Authority, respondent no.2 to dispose of the appeal on its merits within four weeks of the next date fixed in appeal i.e. 13.6.2019 without insisting for any further deposit and until such disposal let there be no coercive demand in respect of the disputed amount in question as against the petitioner. As a consequence, the order of attachment, if any, of the Bank account of the petitioner, is set aside.

In result, the order issued vide Memo No. 815 dated 13.3.2019 as extended vide order bearing Memo No. 863 dated 25.3.2019 at Annexures 2 and 4 respectively are modified to the aforementioned extent.

The writ petition is allowed with the directions above.

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25.04.2019
Transmission Date	NA