IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8555 of 2019

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Alok Tyre House having its Shop/office at Kankarbagh Road, Patna- 800020 through its Proprietor Sri Alok Kumar Santhalia, son of Sri Sambhu Prasad Santhalia, aged about 39 years (Male), Resident of Kankarbagh Road, Police Station- Kankarbagh, District and Town- Patna- 800020.

... ... Petitioner

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna.
2. The Commissioner of Commercial Taxes, Bihar, Patna.
3. The Assistant Commissioner Commercial Taxes, Patna South Circle, Patna, Bihar.
4. The Branch Manager, S.B.I. Kankarbagh Main Road, Patna.
5. The Branch Manager, Canara Bank, Kankarbagh Main Road, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Chiranjiva Ranjan, Adv.
For the Respondent/s	:	Mr.Vikash Kumar, SC-11.
For the Bank	:	Mr. Rajan Ghosarve, Adv.

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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 : 20-06-2019

It is feeling aggrieved by attachment of the bank account by respondent no. 3, the Assistant Commissioner of Commercial Taxes, Patna South Circle, Patna in purported exercise of power vested in him under Section 47 of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as 'the Act') that the petitioner is before this Court questioning the attachment.

Mr. Chiranjiva Ranjan, learned counsel has appeared for the petitioner while State is represented by Mr. Vikash Kumar, learned SC-11 and the Bank is represented by Mr. Rajan Ghosarve, Advocate.

In the nature of the order that we propose to pass we do not think it necessary to delve into the merit of the case but while observing thus we would take note of the submissions made by Mr. Chiranjiva Ranjan, learned counsel appearing for the petitioner.

It is the submission of Mr. Chiranjiva Ranjan that there was no occasion for the respondent assessing authority to exercise power vested under Section 47 of 'the Act'. He submits that the attachment order has been passed following an order passed by the respondent no.3 under Section 31 of 'the Act' and which makes the petitioner liable to tax quantified at Rs. 29,11,199.73/- which is inclusive of the interest quantified at Rs. 6,71,815.32/-. According to Mr. Chiranjiva Ranjan, the petitioner is entitled to the benefit of Input Tax Credit for an amount of Rs. 26,04,601.93/- as against the Value Added Tax quantified at Rs. 22,39,384.41/- and thus he was not exigible to any further tax or levy of interest. We note that the order of assessment records that no evidence in support of the Input Tax credit was produced and thus the claim of the petitioner was not entertained.

According to Mr. Chiranjiva Ranjan since petitioner did not receive any notice of the assessment proceeding in question that he did not appear but this position is contested by Mr. Vikash Kumar by referring to the order-sheet, a copy of which is at Annexure-2 to the writ petition, to submit that several notices were issued in this regard seeking his attendance.

Mr. Vikash Kumar, learned SC-11 adverts to the provisions of Section 72 of ‘The Act’ to submit that the issue raised can well be agitated by the petitioner before the Revisional Authority.

We would leave this dispute at this stage because the issue has been raised by the petitioner before the Revisional Authority i.e. the Commissioner of Commercial Taxes under Section 74 of ‘the Act’ and when all these issues would be open for discussion i.e. (a) whether there was a valid service of notice on the petitioner; (b) whether the proceeding has been held in accordance with law; and (c) whether the petitioner is entitled to Input Tax Credit.

Having heard learned counsel for the parties and considering the status of the matter, we direct the Commissioner of Commercial Taxes, Bihar to dispose of the pending revision application of the petitioner in accordance with law and after giving opportunity of hearing to the parties expeditiously and within a maximum period of six weeks from the date of receipt/production of a copy of this order. The petitioner would be at liberty to raise all issues as raised before this Court at the time of hearing of revision application as also noted above.

The order of attachment shall be governed by the outcome of the revisional proceedings.

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

(Jyoti Saran, J)

(Anjani Kumar Sharan, J)

Anjula/Surendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2019
Transmission Date	NA