

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.822 of 2019

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M/s. Vidyarthi Construction Private Limited, a Company incorporated under the provisions of the Companies Act, 1956 having its office at Nand Vihar Colony, Mithanpura, Muzaffarpur, through its Director, Yogendra Ray, aged about 60 years (Male), son of Ram Chhabila Ray, resident of Data Baba Lane, Nand Vihar Colony, Mithanpura, Mushahari, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna.
2. The Deputy Commissioner of Commercial Taxes, Muzaffarpur (East) Circle, Muzaffarpur.
3. The Commercial Taxes Officer, Muzaffarpur (East) Circle, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr. Vishal Vikram Rana, Advocate Mr. Vijay Shankar Tiwari, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-12-2020

The petitioner has prayed for following relief(s):

“1.(i) For issuance of a Writ in the nature of Certiorari for quashing of the order dated 2.7.2018 passed by the respondent no.3 for the period 2016-17 under Section 31 of the Bihar Value Added Tax Act, 2005.

(ii) For a direction to the respondent authorities not to take any coercive step for realization of the demand created vide order dated 2.7.2018, during pendency of the present writ application; and for such relief(s) to which



the petitioner is found entitled in the facts and circumstances of the case.”

The impugned order, in our considered view, suffers from the vice of non-compliance of principles of natural justice.

From the order-sheet placed on record, it is seen that the Assessee was served and had participated in the proceedings. The matter was adjourned by the Assessing Officer from time to time. On 12th of February, 2018 the matter was adjourned for 7th of March, 2018, but however, no proceedings took place on that date and without notice the matter was taken up on 15th of June, 2018 and adjourned for 22nd of June, 2018.

The order dated 15th of June, 2018 does not indicate that any fresh notices were issued to the Assessee. Even though order dated 22nd of June, 2018 records that the information of hearing was notified, but however, there is no proof in that regard and it does not refer to issuance of a fresh notice for any subsequent hearing after 7th March, 2018. On 22nd of June, 2018, the order-sheet records that no action was taken by the Assessee. The order-sheet does not record the date on which the matter was to be taken up again. Certain proceedings took place on 2nd of July, 2018 and the matter was



adjourned, for the petitioner was proceeded *ex parte*.

It is in this backdrop, we find that the impugned order needs to be quashed. It is not one of those cases where the petitioner has been procrastinating the proceedings or not participating therein.

Shri Suraj Samdarshi, learned counsel for the petitioner states that no loss would be caused to the Revenue, inasmuch as the tax already stands paid by the Assessee.

In the aforesaid backdrop, we dispose of the present petition in the following terms:

(a) the impugned order 02.07.2018 passed by respondent no.3, the Commercial Taxes Officer, Muzaffarpur stands quashed and set aside;

(b) matter is remanded to the Assessing Officer for proceeding afresh, in accordance with law;

(c) petitioner shall appear before the Assessing Officer on 25th of December, 2020 at 11:00 A.M. along with the written submissions and documents in support of its claims/contentions;

(d) the Assessing Officer shall pass an appropriate order assigning reasons within a period of four weeks thereafter;



(e) petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;

(f) the Assessing Officer shall consider and decide the case of the petitioner in compliance of the principles of natural justice;

(g) equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(h) we are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(i) if necessary, proceedings during the time of current Pandemic [Covid-19] would be conducted through digital mode;

(j) we have not expressed any opinion on merits;

(k) all issues on merits are left open to be considered by the Assessing Officer;

(l) liberty reserved to the petitioner to challenge the order, if required and desired.

The instant petition sands disposed of in the aforesaid terms.



Interlocutory Application(s), if any, also stands
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.12.2020
Transmission Date	

