

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6132 of 2019

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Ramky Infrastructure Ltd. having its Corporate Office at Ramky Grandiose 15 th Floor, Sy No. 136/ 2 and 4 Gachibowli, Hyderabad, Telangana through its Dy. Manager Vivekanand Sharma, son of Sri. Raj Kumar Sharma, resident of House No. 3, Street No. 3 Vastu Vihae Phase No. 1, Hajipur, P.O. and P.S. Hajipur Industrial Area, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Joint Commissioner of State Tax (Appeal), West Division, Patna.
3. Commercial Taxes Officer, West Circle, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. D. V. Pathy, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-12-2020

Petitioner has prayed for the following relief(s):

“i) the order dated 09.03.2019 (as contained in Annexure-8) passed by the respondent no.2 in Appeal Case No. ST/PTW-8/2018-19 for the period 2010-11 be quashed.

ii) for granting any other relief(s) to which the petitioner is otherwise found entitled to.”

The limited prayer made by Shri D.V. Pathy, learned counsel for the petitioner, is reconsideration of that part of the impugned order whereby the petitioner stands directed to deposit 50% of the impugned amount in terms of the order,



subject matter of challenge before the Appellate Authority.

Shri D.V. Pathy, learned counsel for the petitioner states that the law laid down by this Court in **C.W.J.C. No. 5801 of 2011**, titled as **M/s Speedcrafts Ltd. Vs. The State of Bihar and Others** and **C.W.J.C. No. 10734 of 2015**, titled as **Kamla Devi Singh Vs. The State of Bihar 7 Anr.**, as also the factum of the amount due and payable by the department to the petitioner-company, as indicated in a tabular chart at Page 31 of the brief, was not considered by the authority.

On the other hand, Shri Vikash Kumar, learned Sanding Counsel No. 11 seriously disputes such fact, further adding that the direction to deposit 50% of the impugned amount, factored such circumstance.

Hence, we find that what is being argued before us is not reflected in the impugned order.

As such, we dispose of the present petition in the following terms:

(a) petitioner shall file an application before the authority passing the impugned order, positively within a period of two weeks, seeking modification of that part of the order whereby he stands directed to deposit 50% of the impugned amount;



(b) the authority shall consider and decide the same within a period of four weeks thereafter, on its own merit, as per law, in compliance of the principles of natural justice, independent of its observations made in the impugned order dated 9th of March, 2019 as also accounting for the decisions rendered in **M/s Speedcrafts Ltd. and Kamla Devi Singh (supra)** and the tabular Chart [Page-71];

(c) it stands clarified that if petitioner does not move such an application within the said period, the impugned order shall stand as it is with the petitioner liable to deposit the remaining 50% amount; and in default thereof, appropriate proceedings initiated.

(d) also, if the authority finds reason, sufficient enough to modify its order, and the same is not assailed any further, on compliance thereof, the main appeal shall be heard and decided expeditiously and preferably within a period of four weeks thereafter;

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

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



(h) we are constrained to pass such an order considering the fact that the demand pertains to the Assessment Year 2010-11;

(i) we clarify that all issues on merits are left open and not expressed any opinion on merits.

The present petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Ashwini/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	

