IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9150 of 2020

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HAV Automobiles Pvt. Ltd. having its registered office at SUDHARMA, Opposite A.N. College, Boring Road, Patna through one of its directors namely Harshendra Kumar male aged about 45 years, Son of D.P.N. Singh, Resident of Amawa Kothi, Off Fraser Road, Patna- 800001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Assistant Commissioner of State Taxes, Patna Central Circle, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Gautam Kumar Kejriwal, 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 : 21-12-2020

The petitioner has prayed for following relief(s):

> "1(a) For issuance of writ or order in the nature of certiorari for quashing of the order number 19324 dated 25.02.2020 passed by the respondent number 2 under section 75(12) read with section 50(2) of the Bihar Goods And Services Tax Act, 2017 (hereinafter referred to as the act for short), being ex-parte and as such violative of the principles of natural justice;
>
> (b) For holding and a declaration that the impugned order number 19324 dated 25.02.2020 and summary of order in form DRC-07 dated 29.02.2020 is wholly without jurisdiction and is unsustainable in the eye of law;
>
> (c) For further holding and a declaration

that in absence of the jurisdictional fact necessary for exercise of power under section 50 read with section 75(12) of the act the respondent assessing authority could not have passed the impugned order and the consequential demand notice which is accordingly without jurisdiction and liable to be quashed by this Hon’ble Court;

(d) For further holding and a declaration that the case of the petitioner is squarely covered by the judgment dated 06.01.2020 of Hon’ble Madras High Court in the matter of Refex Industries Limited Vs. Asst. Commissioner of CGST and Central Excise wherein it has been held that the liability of interest under section 50 of the act would be attracted only in case of the tax liability discharged from out of the cash ledger;

(e) For further holding and a declaration that no liability of interest would be attracted in the case of the petitioner when the credit balance existing in the electronic credit ledger of the petitioner is quite surplus to meet the tax liabilities admitted by the petitioner in the returns filed for the respective months;

(f) For further holding and a declaration that in case the petitioner has already furnished the return and made payment of tax liabilities in terms of section 39(7) of the act no liability of interest would be attracted in terms of section 75(12) of the act;

(g) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

Shri Vikash Kumar, learned Standing Counsel No. 11 has electronically transmitted certain documents to Shri Gautam Kumar Kejriwal, learned counsel for the petitioner.

In view of the same, learned counsel for the petitioner, under instructions, seeks permission to withdraw the present petition reserving liberty to file a fresh petition on the same and subsequent cause of action.

Liberty granted.

The present petition stands disposed of as withdrawn with the liberty aforesaid. Liberty also granted to the petitioner to mention the matter for early listing.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/P.K.P/

AFR/NAFR	
CAV DATE	
Uploading Date	23.12.2020
Transmission Date	