IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8635 of 2018

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M/s S V S V S Projects Pvt. Ltd. Through Its Managing Director Namely Mr. V. Rammohan Rao Son of V. Sitaramayya Late, Resident of SVSVS Project Pvt Ltd., C/o Parameshwara Purbey, D.O. L.I.C. Chotragupta Colony, Ward No- 20, Stadium Road, Madhubani District- Madhubani and Registered office at Plot No. 31, 2nd Floor, Phase- 1, Kalyan Nagar, Hyderabad- 5000038 Telangana.

... ... Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Commercial Taxes, Govt. of Bihar, Patna.
2. The Joint Commissioner, Department of Commercial Taxes (Appeal), Govt. of Bihar, Darbhanga Division, Darbhanga.
3. The Deputy Commissioner, Department of Commercial Taxes, Govt. of Bihar, Madhubani Circle, Madhubani.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Vikas Kumar, 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 : 09-12-2020

Petitioner has prayed for the following relief(s):-

> (a) For quashing of notice of demand dated 23.02.2018 under Section 25 and Section 39 of Bihar Value Added Tax 2005 in Form N-VIII for the period 2014-15 issued by Respondent No. 3 whereby petitioner has been directed to Deposit Rs. 1,10,72,801/- towards amount of Tax, Rs. 57, 74, 466/- towards interest on amount of tax total amounting to Rs. 1,68,47,267/- into the Govt. treasury.

> (b) For release of Account No. 20011321728 of Bank of Maharashtra, Sultan Bazar Branch, Hyderabad and Account of 60160712983 of Bank of Maharashtra, Madhubani Branch, Madhubani of the petitioner, which has been attached by the respondent authorities pursuant to the aforesaid demand notice dated 23.02.2018 issued under Section 25 and Section 39 of Bihar Value Added Tax 2005 in Form N-VIII".

During the pendency of the present petition, petitioner has placed on record copy of the order dated 29.10.2018 passed by the Joint Commissioner, dismissing the appeal only on account of pendency of the present petition.

Learned counsel for the petitioner states that the entire component of pre-deposit tax already stood deposited before the appellate authority, as such the authority was duty bound to hear the appeal on merits.

We are in agreement with the submission made by learned counsel for the petitioner.

If the component pertaining to the pre-deposit tax stood deposited then the appeal ought to have been heard on merits, or at best, adjourned in view of the pendency of the present petition but not dismissed otherwise, particularly, when this Court had not stayed the proceedings initiated by the petitioner.

As such, we quash and set aside the order dated

23.02.2018 passed by Deputy Commissioner of Commercial Taxes (Appeal) in case No. IR No. 134/16-17, titled as M/s S V S V S Projects Pvt. Ltd., with the following direction(s):-

(a) Petitioner shall appear before the said authority on 21st of December, 2020, when a date shall be fixed for further appearance of the petitioner, enabling him to place on record the material indicating compliance of the statutory provisions of the pre-deposit of the amount in terms of the Statute;

(b) Upon such compliance, the authority shall hear the appeal on merits and pass a fresh order;

(c) The parties also undertake to fully co-operate in the matter and not take any unnecessary adjournment;

(d) Since the proceedings pertains to the year 2014-15, we direct the authority to positively decide the appeal on merits within a period of two months from the date of first appearance;

(e) The proceedings, during the time of current Pandemic- Covid-19, shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode;

(f) Order assigning reasons be supplied. Liberty reserved to agitate the same, if so required.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	