IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20819 of 2019

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M/S Sunita Enterprises having registered office at Rizvi Building, First Floor, Jamal Road, P.s.- Kotwali, Patna- 800001 through its Proprietor Sri Ajit Kumar Chaudhary.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary cum Commissioner, Commercial Taxes Department, Govt. of Bihar, Patna.
2. The Principal Secretary cum Commissioner, Commercial Taxes Department, Govt. of Bihar, Patna.
3. The Joint Commissioner, Patliputra Circle, Commercial Taxes Department, Govt. of Bihar, Patna.
4. The Assistant Commissioner, Patliputra Circle, Commercial Taxes Department, Govt. of Bihar, Patna.
5. The State of Haryana through its Excise and Taxation Commissioner (ST), Panipat, Haryana, Plot No. 179, Sector- 25 (part-2) Panipat.
6. The Excise and Taxation Commissioner (ST), Panipat, Haryana, Plot No. 179, Sector- 25 (part-2) Panipat.
7. The Deputy Excise and Taxation Commissioner (ST), Panipat, Haryana, Plot No. 179, Sector- 25 (part-2) Panipat.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Siddhartha Prasad, Advocate
Mr. Om Prakash 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 : 10-11-2020

Petitioner has prayed for the following relief(s):

"(a) For issuance of appropriate writ(s)/order(s)/ directions(s) for quashing the notice contained in Memo No. 7884 dated 6.9.19 issued by the Assistant Commissioner, Commercial Taxes Department, Patliputra Circle, Patna whereby and whereunder, the petitioner has been asked to be physically present and answer regarding cancellation of two C-Forms bearing nos. HR06WC3268672 and HR06WC3276899 for the transaction of Rs. 12875104/- and Rs. 10239971/- earlier issued by Respondent No. 7.

(b) For issuance of appropriate writ(s)/order(s)/ directions(s) for commanding the Commercial Taxes Department, Govt. of Bihar to give the benefit of abovesaid two C-Form while assessing the return of the petitioner pertaining to to Central Sales Tax for the financial year 2016-17.

(c) For issuance of appropriate writ(s)/order(s)/ directions(s) for prohibiting the Commercial Taxes Department, Govt. of Bihar from collecting Central Sales Tax and penalty and interest, if any, thereof arising out of cancellation of abovesaid two C-Forms by respondent no. 7.

(d) For issuance of appropriate writ(s)/order(s)/directions(s) for staying the operation of notice contained in memo no. 7884 dated 6.9.19 and retraining respondents from realizing Central Sales Tax, if any, arising out of cancellation of abovesaid two Form-C during the pendency of the instant writ petition.

(e) For any other relief/reliefs that the petitioner is entitled to in the fact and circumstances in the case."

The jurisdictional issue is left open to be considered in an appropriate proceedings, if so instituted subsequently, but, however, the petition is disposed of in view of the stand taken by both the parties, which in our considered view is fair.

Shri Vikash Kumar, learned Standing Counsel No. XI appearing for the State, states that if the petitioner were to approach the authorities and file response in terms of notice dated 06.09.2019 (Annexure-11), for the next six weeks no coercive action shall be taken against the petitioner, provided he fully cooperates and gets the order rectified by the authorities within the State of Haryana.

In view of the same, learned counsel for the petitioner seeks liberty, allowing the petitioner to approach the authorities; file response in terms of Form-C (Annexure-8); as also initiate appropriate proceedings before the appropriate Court/Authority having competent jurisdiction.

As such, the petition is disposed of in the following mutually agreed terms:-

(a) Liberty as prayed for by the petitioner is granted;

(b) all questions of law, including jurisdictional issue, are left open;

(c) petitioner is directed to appear before the appropriate authority on 25th of November, 2020 and file response/furnish explanation in terms of Form-C (Annexure-8);

(d) for the next six weeks no coercive action shall be taken against the petitioner;

(e) it shall be open for the petitioner to have the order rectified from the appropriate authority within the State of Haryana;

(f) equally, it shall be open for the appropriate authority within the State of Bihar to consider the petitioner's case on its own merits, as per law.

Petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	