IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21430 of 2019

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Omkar Ceramic, a Partnership firm having its office at 70 Ft. IOC Road, Bye Pass, Patna through its partner Dipikaben Milan Varani aged about 31 years Female wife of Milan Kanjgibhai Virani resident of 293, Mahavir Nagar Society, Yogi Chok, Punagam, Choryasi, Bombay Market, Surat, Gujrat at present residing at A/301, Kashyap Suman Place, Main Road, RMS Colony, P.O. and P.S. Kankarbagh, District Patna.

... ... Petitioner/s

Versus

1. Commissioner of State Tax Having its office at Vikas Bhawan Patna.
2. Addl. Commissioner of State Tax (Appeal), West Division, Patna.
3. Joint Commissioner of State Tax Investigation Bureau, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.D.V.Pathy, Advocate

For the Respondent/s : Mr.Viksh Kumar, SC 11.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-12-2020

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

i) the show cause notice dated 21.01.2019 (as contained in Annexure 2) issued by the respondent No. 3 under section 74 of the Bihar Goods and Services Tax Act, 2017 for the period 2017-18 be quashed.

ii) the order dated 11.03.2019 (as contained in Annexure-3 Series) passed by the respondent no. 3 under Section 74(9) of the Bihar Goods and Services Tax Act, 2017 for the period 2018-19 be quashed.

iii) the order dated 20.08.2019 (as contained in Annexure-4) passed by the respondent no. 2

dismissing the appeal in limine on the solitary ground of delay in filing of the appeal be quashed.

iv) the notice of demand dated 14.03.2019 (as contained in Annexure-3 series) issued by the respondent no. 3 be quashed.

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

For the reasons emanating from the record, more so, the delay having explained on account of non-preparation of the certified copy, we quash and set aside the impugned order dated 14.03.2019 passed by respondent no. 3, namely, Joint Commissioner of State Tax, Investigation Bureau, Bihar, Patna, with further following directions:-

(i) The petitioner shall approach before the appellate authority on 28.12.2020, when a date shall be fixed for further hearing of the matter, which stands restored to its original number and status.

(ii) The parties shall be afforded opportunity of filing additional material in support of their contentions, which they shall positively do so within two weeks.

(iii) The appropriate authority shall decide the issue of limitation afresh and if the appeal is found to be within the prescribed period of limitation, the main appeal itself shall be heard, considered and decided within a period of two months thereafter, i.e. on or before 31st March, 2021.

(iv) The petitioner through learned counsel, undertakes to fully co-operate and not take unnecessary adjournment;

(v) All quests are left open to be adjudicated by the authority below.

(vi) Liberty is reserved to either of the parties to approach the court assailing the order, if so required and desired.

Petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.12.2020
Transmission Date	