IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21317 of 2018

M/s Balaji Solution Pvt. Ltd , having its Registered Office at ECO Space business Park, Block-4B, Unit No. 902, 9th Floor, New Town, Rajarhatt, Kolkata-700156 and one of the Branch Office at Jamal Road, Opposite Jamal Road Post Office, P.S. Gandhi Maidan, District Patna through its Authorised Signatory Sri Ranjeet Kumar, son of Sri Maheshwar Prasad Singh Resident of Village-Shadullahpur, P.S. Lalganj, Distt.-Vaishali at Hajipur

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Commercial Taxes Department, Government of Bihar, Patna.
2. The Deputy Commissioner of Commercial Taxes, Patna West Circle,Patna

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Kumar, Advocate
For the Respondent/s	:	Mr. Vikash Kumar -SC11

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-12-2020

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

> "For quashing/setting aside the order dated 31.05.2018 passed by the learned Deputy Commissioner, Commercial Taxes, Patna West Circle, Patna under the Entry Tax Act, 1993 and demand notice has been issued on 31.05.2018 whereby and whereunder tax and interest has been imposed to the tune of Rs. 15,78,302/- without considering the fact that the said amount has been deposited under the head of Bihar VAT Act and for a direction to the respondents to adjust the amount payable under Bihar Entry

Tax Act which was already paid under the VAT Act to the tune of Rs. 11,20,005/-."

Learned counsel for the petitioner states that petition be disposed of in the light of the decision rendered by a co-ordinate Bench of this Court in the case of **M/s Premier Irrigation Adriteck vs. The State of Bihar & Ors.; 2014 (3) PLJR 81.**

Shri Vikash Kumar, learned counsel appearing for the revenue, readily agrees for such suggestion, for according to him, the principle laid down is in favour of revenue and not that of the writ petitioner.

Having heard learned counsel for the parties as also perused the record, we are of the considered view that the matter needs to be considered afresh by the assessing officer, more so, in the light of the annexure placed on record by the petitioner and the decision rendered by a co-ordinate Bench of this Court in **M/s Premier Irrigation Adriteck** (supra). Also on the ground of violation of principles of natural justice as no hearing was afforded.

As such, we quash and set aside that part of the impugned order dated 31.05.2018 wherein the factum of deficiency in payment of amount of tax has been dealt with, subject to verification of the documents. The authority shall pass a fresh order to the limited matter.

Liberty reserved to the petitioner to take appropriate remedy as per law, if so required and desired.

We direct the parties to appear before the assessing officer on 05.01.2021 on which date, the parties shall place on record additional materials, if so required.

The proceedings be conducted through the digital mode, if so required and decision positively be taken within a period of four weeks.

Petition stands disposed of.

Interlocutory application, if any, shall also disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	21.12.2020
Transmission Date	