IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25140 of 2019

M/s Ayesha Exports a proprietorship firm having its place of business at Ayesha Manzil, Nawabganj, P.O.-Kishanganj-855108, dist. Kishanganj (Bihar) through its proprietorship Majharul Haque (Male) age about 50 years son of Late Md. Ilyas, Resident of Ayesha Manzil, Nawabganj, P.O. Kishangaj, Dist Kishanganj.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner State Tax-cum-Secretary, Commercial Taxes Department, Bihar having its office at Vikash Bhawan, Bailey Road, Patna.
2. The Deputy Commissioner of Commercial Taxes, Kishanganj Circle, Kishanganj.
3. The State Taxes Addl. Commissioner (Appeal) Purnea Division, Purnea.

... ... Respondent/s

Appearance :
For the Petitioner/s : Mr.Ramesh Kumar Agrawal, Advocate
For the Respondent/s : Mr.Vikash Kumar (Sc11)

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)
(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Date : 25-11-2020

Heard the parties.

Petitioner has prayed for following reliefs:-

> (I) For issuance of appropriate writ(s), order(s) and / or direction(s) for quashing the order dated 08.09.2018 passed by the respondent State taxes Addl. Commissioner (Appeal), Purnea in Appeal No.-KS/VAT-CST 3/2016-17 for the period 2014-15 by which he has dismissed the appeal filed by the petitioner on the ground that the petitioner has not deposited 20% of the assessed tax in spite of the facts that the petitioner has already deposited 20% of the assessed tax much prior to 08.09.2018.

WEB COPY

(ii) For issuance of appropriate writ/(s), order/(s) and / or direction(s) in the nature of writ of mandamus restraining the respondent officers from taking any step for realization or collection of the aforesaid amount of tax, penalty and interest mentioned in the aforesaid impugned order of assessment and demand notice.

(iii) To grant such other consequential relief(s) to the petitioner , which this Hon'ble Court may find the petitioner to be entitled to in equity and/or in law in the facts and circumstances of the case."

It is submitted by learned counsel for the petitioner that his appeal has been dismissed by the appellate authority only on the ground that he has failed to pre-deposit 20% of assessed amount which is mandatory for admission of appeal. It is further submitted by learned counsel that petitioner has already deposited 20% of assessed amount by assessing authority for admission of his appeal before the appellate authority.

Writ petition is disposed of with a direction to the appellate authority that he will verify the submission made by learned counsel for the petitioner that he has already deposited 20% of assessed amount by the assessing authority for admission of appeal. If the appellate authority comes to a finding that petitioner / appellant has deposited 20% of the assessed amount for admission of appeal, his appeal may be admitted and decided on merit within 8 weeks from the date of admission of appeal.

WEB COPY

It will be open for the petitioner to place additional material, if so required, which shall be considered by the appellate authority in accordance with law.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2020
Transmission Date	NA

WEB COPY