IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5662 of 2021

Pravin Electricals Pvt. Ltd., having its registered office at E-5/2, First Floor, Highland Park, Jai Shastri Nagar Mulund Colony, Mulund (W), Mumbai through its Taxation Head, Shaiju Plathottathil (Male) (aged about 40 years) son of Shri.U Nanu resident of Unnipravan House, Near Sultan Canal, Kozhibazar, Madayi, PS. Payangadi, District Kannur - Kerala. .... Petitioner

Vs.

1. State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Addl. Commissioner of State Tax, (Appeal), Central Division, Patna.
3. Dy. Commissioner of State Tax Special Circle, Patna. ..... Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.V. Pathy, Advocate
		Mrs. Manju Jha, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, S.C. 11

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

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 24-06-2021

Petitioner has prayed for the following relief(s):

i) the order dated 12.12.2020 (as contained in Annexure -10) passed by the respondent no.2 in Appeal Case No.ST/SL – 167/2018 – 19 for the period 2015 – 16 without consideration of the submissions made earlier and request for adjournment due to present pandemic situation and insistence for hearing on video conference be set aside and quashed.

ii) the order dated 12.12.2020 (as contained in Annexure -10) passed by the respondent no.2 in Appeal Case No.ST/SL – 167/2018 – 19 for the period 2015 – 16 without consideration of the submissions made is contrary to the principles of natural justice and fair play in action?

iii) for a direction to the respondent no.2 hear and dispose of the Appeal Case No.ST/SL – 167/2018 – 19 for the period 2015 – 16 with the Appeal Case No.ST/SL-166/2018-19 for the period 2016-17 being heard analogous with the said appeal which stood adjourned to 19.01.2021.

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

We are convinced that the petitioner's request for hearing the two appeals listed together was turned down without any justifiable reason. We notice that the petitioner had preferred separate appeals with respect to the years 2015-16 and 2016-17.

During the time of Covid-19, without affording adequate opportunity, the Appellate Authority proceeded to decide the appeal preferred in relation to the year 2016-17, whereas the appeal for the earlier year was adjourned. Petitioner was neither noticed nor properly heard, seriously prejudicing his case as the decision of the appeal entails civil consequences, inasmuch as pecuniary liability stands fastened.

As such, on this sole ground alone, we dispose of the appeal in the following terms:-

(a) We quash and set aside the impugned order dated 12th of December, 2020 (Annexure-10) passed by the Respondent No. 2 namely Additional Commissioner of State Tax (Appeal), Central Division, Patna in Appeal Case No. ST/SL-167/2018-19;

(b) We accept the statement of the petitioner that ten per cent of the total amount, being condition prerequisite for hearing of the appeal, already stands deposited. If that were so, the both the appeals [Appeal Case No. ST/SL-167/2018-19 and Appeal Case no. ST/SL-166/2018-19] shall be considered and decided on merits by passing a speaking order. However, if the amount is not deposited for whatever reason(s), same shall be done before the next date;

(c) This deposit shall be without prejudice to the respective rights and contention of the parties and subject to the order passed by the Appellate Authority. However, if it is ultimately found that the petitioner's deposit is in excess, the same shall be refunded within two months from the date of passing of the order;

(d) We also direct for de-freezing/de-attaching of the bank account(s) of the writ-petitioner, if attached in reference to the proceedings, subject matter of present petition. This shall be done immediately.

(e) Petitioner undertakes to appear before the Appellate Authority i.e. Respondent No.2 namely Addl. Commissioner of State Tax (Appeal), Central Division, Patna, on 26th of July, 2021 at 10:30 A.M., if possible through digital mode;

(f) The Appellate Authority shall condone the delay in filing the appeals and decide the appeals on merits by passing a speaking order after complying with the principles of natural justice;

(g) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(h) During pendency of the appeal, no coercive steps shall be taken against the petitioner.

(i) The Appellate Authority shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

(j) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(k) The Appellate Authority shall decide both the appeals on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

(l) Liberty reserved to the petitioner to challenge the order, if required and desired;

(m) Equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(n) We are hopeful that as and when petitioner takes recourse to such remedies, before the appropriate forum, the same shall be dealt with, in accordance with law, with a reasonable dispatch;

(o) We have not expressed any opinion on merits and all issues are left open;

(p) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

The instant petition sands disposed of in the aforesaid terms.

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

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	