IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8653 of 2021

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Sanmarg Projects Private Ltd Flat No. 202, Saraswati Niketan At - I.A.S. Colony, Kidwaipuri, Patna - 800001, Through its authorised Person Ms. Bhumika Gulati.

... ... Petitioner/s

Versus

1. The state of Bihar.
2. The Principal Secretary - cum - Commissioner Finance department, Govt. of Bihar,
3. The Additional Commissioner, State Tax (Appeal) Patna West Division, Patna - 800001.
4. The Joint Commissioner, State Tax Patna Central Circle Patna.
5. The Assistant Commissioner, state Tax Patna Central and West Circle Patna - 800001.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Uday Pratap Singh, Advocate Manoj Kumar Ambastha, Advocate Ms. Manisha, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP 7

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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 : 01-07-2021

Petitioner has prayed for the following relief(s):

> "(a) That this application is being filed for issuance of a writ in the nature of writ of certiorari or any other appropriate writ, order/ direction for quashing the orders dt. 05.03.2020 and 01.03.2021 passed by Respondent no. 5 and

3 by which a demand of Rs. 28,77,243.20/- Twenty eight Lakh Seventy Seven thousand, Two hundred forty three and paisa twenty only) was raised against the petitioner and subsequent appeal has been rejected respectively.

(b) That, this application is further being filed for quashing order dt. 18.01.2021 passed by Respondent no. 4 by which an amount of Rs. 25,32140.52/- (Twenty five Lakh Thirty thousand one hundred forty and paisa fifty tow only) has been attached from the bank account of the petitioner being operated vide A/c No. 50149821471, Allahabad Bank, Main branch, Budh Marg, Patna -800001."

It is brought to our notice that vide orders dt. 05.03.2020 and 01.03.2021 passed by Respondent no. 5 and 3 a demand of Rs. 28,77,243.20/- (Twenty eight Lakh Seventy Seven thousand, Two hundred forty three and paisa twenty only) was raised against the petitioner and subsequent appeal has been rejected respectively and vide order dt. 18.01.2021 passed by Respondent no. 4 an amount of Rs. 25,32140.52/- (Twenty five Lakh Thirty thousand one hundred forty and paisa fifty tow only) has been attached from the bank account of the petitioner being operated vide A/c No. 50149821471, Allahabad Bank, Main branch, Budh Marg, Patna -800001.

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Appellate Authority for deciding the appeal afresh. Also, while considering and deciding the appeal, the ground of delay shall not be taken into account and the appeal shall be decided on merits. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

Having heard learned counsel for the parties as also perused the record made available, we dispose of the present petition in the following mutually agreeable terms:-

(a) We quash and set aside the orders dt. 05.03.2020 and 01.03.2021 passed by Respondent no. 5 and 3 by which a demand of Rs. 28,77,243.20/- (Twenty eight Lakh Seventy Seven thousand, Two hundred forty three and paisa twenty only) was raised against the petitioner and subsequent appeal has been rejected respectively and order dt. 18.01.2021 passed by Respondent no. 4.

(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 appeal shall be decided on merits. 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, this shall be done within a period of seven days from the date of account being made operational. ;

(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. Additional Commissioner, State Tax (Appeal), Patna West Division, Patna on 1st of September, 2021 at 10:30 A.M., if possible through digital mode;

(f) The Appellate Authority shall condone the delay in filing the appeal and decide the appeal on merits 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 the appeal 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)

K.C.Jha/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.07.2021
Transmission Date	