

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6727 of 2020

=====

M/s Anand Automobiles A Proprietorship Firm, Situated at- Lallan Complex,
Chapra Road, Siwan through its proprietor Anand Kishor Singh @ Anand Kr.
Singh Age-32, Sex Male, S/o Ram Naresh Singh, R/o Pakadi More, P.S. M
Siwan Distt.- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Commissioner-cum- Secretary, Commercial Taxes Department, Government of Bihar, Patna.
2. The Commissioner-cum- Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. The Joint Commissioner (Audit), Commercial Taxes Department, Government of Bihar, Siwan Circle at Muzaffarpur.
4. The Dy. Commissioner of Commercial Taxes Circle- Siwan, Siwan, Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Sanjesh Prasad, Adv
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 : 19-02-2021

Heard learned counsel for the parties.

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

"For issuance of an appropriate writ/order or direction in the nature of a writ of Certiorari, for quashing memo No. 31 dated 17.12.2019 which has been issued by curbing the right to appeal under Section 72 available to the petitioner of the Bihar Value Added Taxes Act, 2005. It is further prayed that during the pendency of the this



proceeding the operation of the demand notice dated 17.12.2019 be stayed till final disposal."

We are of the considered view that the objection raised by the State is wholly sustainable, as disputed question of fact cannot be adjudicated with regard to the existence of liability, in a writ petition filed under Article 226 of the Constitution of India, more-so, when the petitioner has got remedy to prefer an appeal under the provisions of Bihar Value Added Tax Act, 2005.

Whether the order was passed without the compliance of principles of natural justice is also an issue, which can be raised efficaciously and can be effectively adjudicated by the authority concerned.

We are informed that the petitioner's bank account stands attached.

After the matter was heard for some time, learned counsel for the parties pray for disposal of the present petition on the following mutually agreeable terms:-

(i) The petitioner shall appear before the appropriate authority authorized under Section 73(A) of the Value Added Tax Act, 2005, on or before 08.03.2021 at 10:30 am;

(ii) If such, appeal/revision is filed within the stipulated



time, we direct the Authority concerned to consider and decide the application for grant of interim relief within a period of two weeks thereafter, as also the main proceeding be concluded positively by **31st of March, 2021** as the proceeding pertains to the Assessment Year 2012-13.

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

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

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

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

(vii) Additionally, if the amount of refund is found refundable, the authorized officer shall direct the competent authority to disburse the amount forthwith to the petitioner positively within the statutory period.

(viii) Mr. Vikash Kumar, states that if the petitioner prefers an appeal within the aforesaid period, the issue of limitation shall not come in the way of the authority in proceeding with the appeal.



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

(Sanjay Karol, CJ)

(S. Kumar, J)

ranjan/-

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

