IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6417 of 2020

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Vidyarthi Construction Private Limited a company registered under the provisions of Companies Act, 1956, having its registered office at Nand Vihar Colony, Mithanpura, Muzaffarpur, Bihar, 842002 through its Director and Authorized Signatory Shri Yogendra Rai,Son of Shri Ram Chhabila Rai, Resident of Bapa Lane, Nand Vihar Colony, P.S. Mithanpura, District-Muzaffarpur, Bihar- 842002

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Commercial Taxes, Government of Bihar, Patna.
2. The Commissioner of Taxes, Bihar, Patna.
3. The Joint Commissioner, State Taxes, East Circle, Muzaffarpur, Bihar.
4. The Executive Engineer, Irrigation Division, Raghopur, Supaul.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satyabir Bharti
For the Respondent/s	:	Mr. Vikash Kumar, SC 11

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

Date : 22-01-2021

Petitioner has prayed for the following relief(s):

"i. Quashing the ex-parte assessment orders dated 29.10.2018, 31.07.2019, 07.08.2019, 24.07.2019 and 20.08.2019 in Fom ASMT-13, passed by the respondent no. 3 namely the Joint Commissioner, State Taxes, East Circle, Muzafarpur, Bihar under Section 62 of the Bihar Goods and Service Tax Act, 2017, for the period March, 2018, March, 2019 to June, 2019 by which on failure of the petitioner to furnish monthly returns under Section 39 of GST Act, the tax liability of the petitioner has been determined on the basis of materials available on record exercising his power of best judgment assessment;

ii. To Quash the consequential summary of the orders dated 27.12.2018, 04.09.2019, 07.09.2019, 07.09.2019 and 20.08.2019 issued in Form DRC - 07 for the aforesaid period that is March, 2018, March, 2019 to June, 2019;

iii. To quash the Notice of demand, all dated 08.02.2020, issued in Form DRC - 13, under process no. 1160, 1161 and 1164 modified vide letter dated 18.02.2020 as contained in letter no. 1177 by which exercising powers conferred under Section 79 (1)(c) of the GST Act, the respondent no. 4 namely the Executive Engineer, Irrigation Division, Raghopur, Supaul, has been directed to make payment of a sum of Rs.20,22,628.00, Rs.8,78,110.00 and Rs. 10,116.00 respectively being the outstanding dues on account of the impugned assessment passed against the petitioner;

iv. Pass such other order(s) as your Lordships may deem fit and proper in the facts and circumstances of the present case."

Having heard learned counsel for the parties, as also perused the record, we are in agreement with Sri Satyabir

Bharti, learned counsel for the petitioner, that the principles of natural justice, in passing the order stands violated.

Also, we are of the view that the impugned orders dated 29.10.2018, 31.7.2019, 7.8.2019, 24.7.2019 and 20.8.2019 passed by the Respondent No.3, the Joint Commissioner of Sate Taxes, Danapur Circle, East Circle, Muzaffarpur in Form ASMT-13 need to be quashed and set aside, for the same to have been passed without following the principles of natural justice. In terms of the impugned order, financial liability stands fastened. Thus, it entails civil consequences, seriously prejudicing the petitioner inasmuch as, without affording any adequate opportunity of hearing or assigning any reason.

Shri Satyabir Bharti, learned counsel for the petitioner states that without prejudice to the respective rights and contentions of the parties, petitioner is ready and willing to deposit a sum of Rs. 5 lacs with the appropriate authority within a period of two weeks from today.

Statement accepted and taken on record.

It stands clarified that deposit of such amount would be without prejudice to the respective rights and contentions of the parties and the order which the authority may pass upon the matter being remanded for consideration afresh.

As such, purely on a limited ground, we quash and set aside the impugned orders dated 29.10.2018, 31.7.2019, 7.8.2019, 24.7.2019 and 20.8.2019 passed by the Respondent No.3, the Joint Commissioner of Sate Taxes, Danapur Circle, East Circle, Muzaffarpur in Form ASMT-13 for the period March, 2018, March, 2019 to June, 2019 under Section 62 of Bihar Goods and Services Tax Act, 2017, as contained in Annexure-1 series, with further mutually agreeable directions that- (a) the petitioner shall deposit a sum of Rs. 5 lacs with the authority on or before 8th February, 2021; (b) the petitioner shall appear before the authority on 8th February, 2021 in his office at 10:30 A.M., on which date he shall place on record additional material, if so required and desired; (c) also, further opportunity shall be afforded to the parties to place additional material, if so required and desired; (d) petitioner undertakes to fully cooperate and not take any unnecessary adjournment; (e) the authority shall decide the matter on merits, in compliance of the principles of natural justice, on or before 5th April, 2021; (f) liberty reserved to the parties to take recourse to such remedies as are otherwise available in accordance with law; (g) we have not expressed any opinion on merits and quashed the order only on the ground of violation of principles of natural justice. (h) if necessary, proceedings during the time of current Pandemic [Covid-19] would be conducted through digital mode; (i) needless to add, with the passing of the order, if it is eventually found that deposit made by the petitioner is in excess of the amount determined due and payable, the same shall positively be refunded expeditiously as per the provisions of the statute.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	