IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12794 of 2021

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M/s Vijai Electrical Limited, a Company registered Under Indian Companies Act having its Registered Office at Road No.6-3-648/1 and 2 Raj Bhavan Road, Somajiguda, Hyderabad-500082, Regional Office at -Sia Kripa, Miss Mandal Compound, East Boring Road Canal Road, Patna. Bihar-800001, through its Manager-Finance and account and authorized Signatory Meher Tej K R S V Alamuri age about 42 Years Gender Male Son of Bala Krishna, Permanent address- Gollala Veedhi, Nallajarla Mandalam, Dubacherla, West Godavari, Andhra Pradesh-534112, Presently Residing at-Sai Kripa, Mismandal, East Boring Canal Road, Post-GPO, P.S.-Buddha Colony patna-800001.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Department of State Commercial Tax, Bihar, Patna.
2. The Commissioner, State Commercial Tax, Bihar, Patna.
3. The Joint Commissioner of State Commercial Tax, Patliputra, Patna, Bihar.
4. The Deputy Commissioner, State Tax, Patliputra Circle, Patna, Bihar.
5. The Assistant Commissioner, State tax, Patliputra Circle, Patna, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Krishna Mohan Mishra, Advocate Mr. Prasoon Kumar, Advocate
For the Respondent/s	:	Mr.Vikash Kumar (SC 11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(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.)

2 29-07-2021 Petitioner has prayed for the following relief(s):-

i. To issue the writ of certiorari and quash and set aside the order as well as demand notice dated 27.01.2020 passed under section 73 (9) and section 50 of Bihar Goods and Service Tax Act, 2017 (herein after referred to as BGST Act) by respondent assistant commissioner for the financial year 2017-18 whereby and whereunder the respondent has levied tax of Rs.2,82,26,090/-, interest Rs.9548925/- and penalty of Rs.2,82,26090/-, total 405,97,624/- by disallowing the input tax credit of Rs.282,26,090. Claimed by petitioner under section 140 of the Bihar Goods and Service Tax Act (herein after referred to as GST Act).

ii. To issue appropriate writ directing the respondent to allow the input tax credit of Rs.282,26,090/ under transitional provision as per section 140 of BGST Act and delete the demand of tax as well as interest and penalty.

iii. To further direct the pay refund of Rs.89,57,575/- which is due upon the respondent for the period 2006-07 to 2009-10 but the same was not paid even after request made by petitioner.

iv. To direct the respondent to vacate the order of attachment on bank account and also stay the recovery proceeding in view of the fact that petitioner has paid tax over and above the assessed tax.

v. To pass any writ/ writ, order/ orders, direction/ directions as deemed fit and proper."

Learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to seek appropriate remedy of appeal.

Learned counsel for the State submits that issue of delay shall not come in the way of decision of the proceedings on merit.

Prayer allowed.

The present application is, accordingly, disposed of as withdrawn reserving liberty to the petitioner to file an appeal. As and when such appeal is filed by the petitioner, the authority concerned is directed to consider the same and dispose it of expeditiously and preferably within a period of two months thereafter.

Needless to say that while considering such request, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

If aggrieved by the said order, the petitioner shall have liberty to approach this Court by way of separate petition(s), if so required and desired.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-

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