IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13669 of 2021

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M/s Bharti Airtel Limited, a company registered under the provisions of the Companies Act, 1956, having its registered office at Airtel Center, Plot No. 16, Udyog Vihar, Phase IV, Gurugram, Gurgaon, Haryana and Circle Office in the State of Bihar at Airtel Campus, Plot No. 18, Patliputra Industrial Area, Patna through its Authorized Signatory, Ankit Gaurav, Male, aged about 29 years, Son of Shri Ashok Kumar Mishra, Resident of Plot No. 305, Block A, Shanti Apartment, Bhabha Colony, Dusadhi Pakdi, P.S. Kankarbagh, District - Patna.

... ... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary - Cum - Commissioner of State Taxes (erstwhile known as Commissioner of Commercial Taxes), Bihar, Patna having its office at Vikas Bhawan, New Secretariat, Patna.
2. The Principal Secretary - Cum - Commissioner of State Taxes (erstwhile known as Commissioner of Commercial Taxes), Bihar Patna New Secretariat, Bailey Road, Patna.
3. The Commercial Taxes Tribunal, Bihar, Patna, Collectorate, Patna through its Secretary.
4. The Joint Commissioner State Taxes (erstwhile known as Deputy Commissioner of Commercial Taxes, Patliputra Circle, Patna.
5. The Assistant Commissioner State Taxes, (erstwhile known as Assistant Commissioner of Commercial Taxes), Patliputra Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. D. Sanjay, Sr. Advocate
Mr. Mohit Agarwal, Advocate
Ms. Priya Gupta, Advocate
Ms. Sushila Agrawal, 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 JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

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(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 : 04-08-2021

The petitioner has prayed for the following relief/s :-

a) For issuance of an appropriate writ restraining the Respondent No. 4 & 5 to give effect to the Reminder/Demand Notice dated 16.07.2021 bearing Process No. 156, with respect to FY 2017-18, wherein the Petitioner has been called upon to pay the impugned demand of an amount of Rs. 36,40,132/-, till final adjudication of the Appeal and prayer of stay of the impugned demand under Section 73 of the Bihar VAT Act, 2005 by the Learned Commercial Taxes Tribunal Bihar, Patna;

b) For a declaration that the petitioner may not be compelled to pay the amount demanded by the Respondent No. 5 by virtue of the notice of Reminder/Demand Notice dt. 16.07.2021 issued vide Process No. 156 till the prayer for stay is heard by the learned Commercial Taxes Tribunal Bihar, Patna which is presently lying defunct in absence of a Chairman failing which the petitioner shall stand remediless and the right of the petitioner to avail remedy against the demand and original order shall stand extinguished;

c) For a further declaration that any such recovery of the amount of demand during the period when the statutory limitation for filing Appeal is still available and also during the period when the learned Commercial Taxes Tribunal Bihar Patna remains defunct shall seriously jeopardize the interest of the petitioner which is violative of principles of natural justice;

d) For any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances in this case;

We are informed that the appeal against the impugned appellate order dated 02.07.2021 and impugned Assessment Order and Demand Notice dated 09.10.2020 is in process of filing, along with a prayer for stay, before the learned Commercial Taxes Tribunal, Bihar, Patna and the statutory limitation for filing the same has yet not expired. Despite the same, the respondent department has issued a Reminder/Demand Notice dated 16.07.2021 bearing Process No. 156 with respect to financial year 2017-18. Also, the Commercial Taxes Tribunal, Bihar, Patna is presently lying defunct in absence of Chairman.

In that view of the matter, we direct that till hearing of the appeal which is to be filed before the Tribunal, or passing of an appropriate order on the application for stay by the Tribunal, subject to payment of 10% of the impugned demand within a period of two weeks, no coercive action shall be taken against the petitioner.

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)

Ashwini/Sujit/

AFR/NAFR	
CAV DATE	
Uploading Date	06.08.2021
Transmission Date	