IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4289 of 2021

==

M/s Planning and Infrastructural Development Consultants Pvt. Ltd. (PIDCPL) having its registered office at 102-103,Nirmala Niket,Jagdamba Path, North S.K. Puri,Patna,Bihar-800013represented through Mrs.Akshara Gyan, W/o Akash Karan, posted as Legal Manager and Authorized Representative. **...Petitioner**

-Versus-

1. State of Bihar, through Principal Secretary, Commercial Taxes Department, Gov. of Bihar
2. Commissioner, Central GST and Central Excise, Patna-I, 3rd Floor, Central Revenue Building (Annexe), Birchand Patel Path, Patna-800001
3. Joint Commissioner of State Tax, Patna Central Circle, Patna
4. Assistant Commissioner, Central GST and Central Excise, Patna-I, 3rd Floor, Central Revenue Building (Annexe), Birchand Patel Path, Patna-80000. **...Respondents**

==

Appearance :

For the Petitioner/s	:	Ms. Somali, Advocate
For the Respondent Nos. 1 & 3	:	Mr. Vikash Kumar, S.C. 11
For the Respondent Nos. 2 &4	:	Dr. K.N. Singh, ASG Mr. Anshuman Singh, ASG

==

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 : 03-05-2021

Petitioner has prayed for the following relief(s):

I. For issuance of writ in the nature of certiorari or orders / directions to set aside the Order of June 2019 dated 08.08.2019 bearing reference no. 4490, DRC-07 dated 04.10.2019 for the month of June, 2019 issued on the basis of Order dated 21.09.2019 bearing reference no. 7930, Order of July 2019 Dated 11.09.2019 bearing reference no. 5386, Order of August 2019 dated 11.10.2019 bearing reference no. 8402, Order of September 2019 dated 14.11.2019 bearing reference no. 10576, Order of October 2019 dated 17.12.2019 bearing reference no. 14406,Order of November 2019 dated 11.01.2020 bearing reference no. 15347 whereby and wherein the Respondent No. 4 has passed an order under Section 62 of The Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'Act') making an assessment on his best judgment, however, failed to take into consideration the relevant materials and made the assessment on pure guesswork and non-uniform parameters, rendering it to bad in the eyes of law and contrary to the judicial pronouncements of the Hon'ble Apex Court.

II. For issuance of appropriate writ in the nature of certiorari or orders / directions to set aside the levy of penalty by the Respondents on the basis of assessment order passed by the Respondent under Section 62 of the Act.

III. For issuance of writ in the nature of certiorari or orders / directions to stay the operation of aforementioned impugned Orders issued under the signature of Respondent No. 4 during the pendency of the instant application.

IV. Any other appropriate writ or direction which may deem fit and proper including the cost.

After the matter was heard for some time, Ms. Somali, learned counsel appearing on behalf of the petitioner, under instructions, states that petitioner may be permitted to prefer an appeal against the impugned order before the Appellate Authority.

Permission granted.

Shri Vikash Kumar, learned Standing Counsel No. 11, states that if such an appeal is preferred within a period of four weeks from today, the issue of limitation shall neither be raised nor allowed to come in the way of adjudication of the appeal on merits.

Statement accepted and taken on record.

As such, petition stands disposed of in the following terms:-

(a) Petitioner is permitted to prefer an appeal within a period of four weeks from today, if possible, through digital mode.

(b) in the event of appeal being preferred within a period of four weeks from today, the issue of limitation shall not come in the way of adjudication of the appeal on merits;

(c) opportunity shall be granted to the parties to place on record all essential documents and materials, if so required and desired;

(d) petitioner through learned counsel undertakes to fully cooperate and not take unnecessary adjournment;

(e) the appellate authority shall decide the appeal on merits, in compliance of the principles of natural justice, within a period of eight weeks from the date of filing the appeal;

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

(g) We are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

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

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

(j) liberty reserved to the petitioner to challenge the order, if required and desired.

The instant petition sands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	03.05.2021
Transmission Date	