IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2847 of 2021

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M/S J.K.M. Infra Projects Limited, A Company Registered Under The Companies Act having its registered office at C-84, Greater Kailash Part-I, New Delhi-110048 and its Regional Office at Flat No. 403, Gorakh Nath & Leela Apartment, East Boring Canal Road, Patna 800001(Bihar) through its authorized signatory Mr. Ashish Jalan, aged about 47 years (Male) son of late Mahavir Prasad Jalan, presently posted as DGM, Finance, JKM Infra Projects, at Flat NO. 403, Gorakh Nath & Leela Apartment, East Boring Canal Road, Patna-800001, Bihar, Permanent resident of Uttar Mahal, Robertsganj, Sonbhadra, Police Station Robertsganj, District Sonbhadra, Uttar Pradesh.

... ... Petitioner/s

Versus

1.Union Of India Through The Secretary (Revenue), Ministry Of Finance, Government Of India, North Block, New Delhi-110001.

2.The goods and Services Tax Council through its secretary, 5th Floor, Tower-II Jeevan Bharati Building, Janpath Road, Cannaught Place, New Delhi-110001.

3.The State of Bihar through its Secretary, State Tax Department, Vikas Bhawan, Bailey Road, Patna-800001.

4.The Commissioner of Central GST and Central Excise, Patna-I, 3rd Floor, Kendriya Rajaswan Bhawan (Annexe Building), Bir Chand Patel Path, Patna-800001.

5.The Commissioner, Bihar State Tax Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.

6.The Additional Commissioner (Appeal), Bihar State GST,Patna West Division, Bikri Kar Bhawan, Anta Ghat, Gandhi Maidan, Patna-800001.

7.The Assistant Commissioner, Shahabad Circle, Ara, Bihar 802301.

... ... Respondent/s

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(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

Appearance :

For the Petitioner/s	:Ms. Abhanjali, Adv Mr. Sanjeev Kumar, Adv Mr. Rajeev Shekhar, Adv
For the UOI	:Mr. Dr. K.N Singh (ASG)
For the State	:Mr. Vikash Kumar SC-11
For the CGST & CX	:Mr. Anshuman Singh, Sr. S.C

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

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(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: 29.04.2021

Heard learned counsel for the parties.

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

> "(I) To issue an appropriate writ/order/direction in the nature of certiorari for quashing the so cause notice dated 10.02.2020 issued under section 73 of GST for the tax period i.e. February-2019-February-2019 for the financial year 2018-19 as no reason has been assigned and quashing of order dated 12.03.2020 including demand notice dated 17.03.2020 on the ground that same has been without initiation of any adjudication proceeding including determination of the tax, thereby rendering entire proceeding viz show cause notice, order and demand notice, are wholly without jurisdiction, per se illegal, arbitrary and blatant violation of principles of natural justice.
>
> (ii) To hold and declare that no tax, interest and penalty can be levied in the present case without initiation of any adjudication proceeding.
>
> (iii) To any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case."

After the matter was heard for some time, Ms. Abhanjali, 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)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.05.2021
Transmission Date	NA