IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19214 of 2021

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Phooltas Transrail Ltd., a registered company having its registered office at Layak enclave, Sahay Nagar, Phulwarisharif, Patna- 801506 through its authorised representative namely Nitesh Kumar, male, aged about 39 years son of Nawal Kishore Mondal Resident of Mirjanhat Chowk, Shivpuri Colony, Ishakchak, Jagdishpuri, Bhagalpur- 812001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of Commercial Taxes, Government of Bihar, Patna.
2. The Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Deputy Commissioner of State Taxes, Central Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, 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)

Date : 29-11-2021

Petitioner has prayed for the following relief(s):

a) For issuance of a writ or order or direction upon the respondents especially the respondent No. 3 to issue to the petitioner or facilitate issuance through manual or electronic mode a declaration in form "H" as against the sale made by the sister concern of the petitioner from Haridwar to the petitioner in Bihar in course of export sale made by the petitioner to the Sri Lankan Railways, Colombo in the financial year 2016 – 17;

b) For holding and a declaration that withholding of a declaration in form "H" would deprive the selling dealer of the petitioner from exemption available against the sales made to the petitioner in course of export in terms of section 5 (3) under the Central Sales Tax 1956 (hereinafter referred to as the central act for short) and also fasten a liability under the local sales tax law of the state of origin which would be illegal, arbitrary, unreasonable and unfair on part of the respondents;

c) For further holding and a declaration that withholding of declaratory form "H" would further violate the statutory right of the petitioner as well as the selling dealer in terms of section 5 (4) of the central act read with rule 12 (10) (a)/(b) of the Central Sales Tax (Registration And Turnover) Rules 1957 (hereinafter referred to as the central rules for short) read with rule 9 of the Central sales tax (Bihar) rules 1957 (hereinafter referred to as the Bihar rules for short);

d) For further holding and a declaration that withholding of the required declaratory form "H" would further violate the constitutional mandate under article 265 of the Constitution of India in light of the consequent deprivation of the petitioner and the selling dealer from the benefit of exemption from chargeability of tax the transaction of export from India to Sri Lanka;

e) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

After the matter was heard for some time, learned counsel for the petitioner, under instructions, states that petitioner shall be content if a direction is issued to the authority concerned to consider and decide the representation (Annexure-8 of the writ petition) which is pending before the appropriate authority for redressal of the grievance(s).

Learned counsel for the respondents states that if any such representation is pending, the authority concerned shall consider and dispose it of expeditiously and preferably within a period of four weeks from the date of production of a copy of this order.

Statement accepted and taken on record.

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

(a) Petitioner shall approach the authority concerned along with a copy of this order for redressal of the grievance(s);

(b) The authority concerned shall consider and dispose of representation of the petitioner, which is pending before him, expeditiously by a reasoned and speaking order preferably within a period of four weeks from the date of production of a copy of this order;

(c) Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties;

(d) Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law;

(e) 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;

(f) Liberty reserved to the petitioner to approach the Court, if the need so arises subsequently on the same and subsequent cause of action;

(g) We have not expressed any opinion on merits of the matter. All issues are left open;

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Rajiv

AFR/NAFR	
CAV DATE	
Uploading Date	01.12.2021
Transmission Date	