IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18409 of 2019

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Fashion Suitings Pvt. Ltd., A Private Limited Company incorporated under the Companies Act, 1956 having its office at Derabari Road, P.O. Katihar, P.S. Sahayak Thanka, District- Katihar through its Manager Rajnish Kumar (aged about 50 years Male), Son of Shri Uday Shankar, resident of 100 Mtr. East Mahendru, Post Office Pakka Kuan, P.s. Sultangaj, Lane Mahendru, District Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner of Commercial Tax, Bihar, Patna having its office Vikas Bhawan, Patna.
2. Joint Commissioner of Commercial Taxes (Administration), Purnea Division, Purnea.
3. Dy. Commissioner of Commercial Tax, Katihar Circle, Katihar.
4. Asst. Commissioner of State Tax, Katihar Circle, Katihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.D.V.Pathy, Advocate
		Ms. Manju Jha, Advocate
For the Respondent/s	:	Mr.Vikash Kumar, Sc 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-01-2021

Heard learned counsel for the parties.

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

> "i) the order passed by the respondent no. 4 for the period 2008-09 (as contained in Annexure-8 series) under Section 31 of the Bihar Value Added Tax Act, 2005 (hereinafter called the Act) be quashed.
>
> ii) For granting any other relief(s) to which the petitioner is otherwise found entitled to."

After the matter was heard for some time, in crux, Shri D.V.Pathy, learned counsel for the petitioner, has made the following submissions:-

(a) the order of re-assessment dated 15.06.2019 is barred by the period of limitation prescribed under Section 25 of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as the 'Act') and Rule 21 of the Bihar Value Added Tax Rules, 2005 (hereinafter referred to as the 'Rule');

(b) the assessing officer did not assign any reason necessitating re-assessment of the original order dated 20.06.2015/04.07.2015;

(c) the appropriate authority has exceeded its jurisdiction at the behest and direction of the superior authority;

(d) the transferee branch has already paid taxes on the same transaction.

Countering such submissions, Shri Vikash Kumar, learned counsel for the State, states that, (a) the order of re-assessment is passed by the authority based on its independent assessment of the prevailing facts and circumstances; (b) the order is certainly within the period of limitation prescribed under Section 31 of the Act; (c) in any event, the petitioner has got an equal efficacious remedy of preferring an appeal, as provided under the provisions of the Statutes.

Responding to the same, Shri Pathy expresses his apprehension of the appellate/revisional authority not dealing with each one of the issues, which the petitioner might be raising in the ground of appeal.

Having heard learned counsel for the parties, we dispose of the present petition in the following terms:-

(i) petitioner is permitted to take recourse to such remedies, as are otherwise available, under the provisions of the Act;

(ii) appeal/revision or any other remedy preferred by the petitioner shall be entertained, if proceedings initiated within the period of six weeks from today.

(iii) Needless to add that since the petitioner has been pursuing the remedy before this Court, the period of limitation shall not come in the way of adjudication of such remedy.

Shri Vikash Kumar states that the matter shall be heard and decided on merits expeditiously, without counting the period of limitation, if the petitioner exhausts such remedies within a period of six weeks from today.

Shri Pathy states that the petitioner through the learned counsel undertakes to fully co-operate and not take any unnecessary adjournment in the matter.

We direct the appropriate authority to adjudicate/dispose of such proceedings on merit, as per law, expeditiously and positively on or before 15.03.2021.

Needless to add, the authority concerned shall consider all aspects dealing with each one of the averments made by either of the parties and order assigning reasons shall also be supplied to the parties.

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

We have not expressed any opinion on merits. All issues are left open.

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

The proceedings, during the time of current Pandemic- Covid-19 shall be conducted through digital mode, unless the parties otherwise mutually agree to meet in person i.e. physical mode.

The petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.01.2021
Transmission Date	