IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25256 of 2019

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Pinax Steel Industries Pvt. Ltd. a registered company having its registered office at 227, AJC Bose Road, 2nd Floor, Anand Lok Building, Kolkata through its authorised representative namely Deepak Kumar Agrawal, male, aged about 52 years, Son of Gopal Krishna Agrawal, Resident of Arya Samaj Road, 204, S.K. Residency, P.S. Danapur, Danapur, Patna- 801503.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Joint Commissioner of State Taxes, Danapur Circle, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Gautam Kumar Kejriwal
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

Petitioner has prayed for the following relief(s):

> “ a) For issuance of a writ in the nature of certiorari for quashing of the order dated 30.11.2019 passed by the respondent Joint Commissioner Of State Taxes, Danapur Circle, Patna (hereinafter referred to as the Assessing Authority for short) as

well as the connected demand notice in form GST DRC- 07 dated 30.11.2019 in exercise of powers under section 73 (9) and section 50 of the Bihar Goods And Service Tax Act, 2017 (hereinafter referred to as the Act for short);

b) For issuance of a writ or order or direction on respondents specially respondent assessing authority to award an opportunity of filing the comprehensive reply and also of hearing in the proceeding initiated under section 73 of the act and decide the matter afresh after considering all materials and explanation submitted by the petitioner;

c) For holding and a declaration that the action of the respondent assessing authority is not responding and communicating to the petitioner anything about the petition dated 19.10.201 submitted by the petitioner in form DRC - 06 seeking further time in the proceeding and passing of the aforesaid impugned order along with the demand notice without fixing a date of

> hearing and decision is denial of rights to adequate opportunity of hearing and therefore violates the principles of natural justice;
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> d) For further holding and a declaration that in the undisputed facts and circumstances of this case the petitioner is entitled to an opportunity of submitting its case and also of hearing on the issues of facts and law before any fresh decision is taken by the respondent assessing authority in terms of the provisions of the act;
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> e) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case."

Having heard learned counsel for the parties, as also perused the record, we are in agreement with Sri Gautam Kejriwal, learned counsel for the petitioner, that the principles of natural justice, in passing the order stands violated.

Also, we are of the view that the impugned order dated 30.11.2019 passed by the Respondent No.2, the Joint Commissioner of Sate Taxes, Danapur Circle, Patna needs to be quashed and set aside, for the same to have been passed without following the principles of natural justice. In terms of the impugned order, financial liability stands fastened. Thus, it entails civil consequences, seriously prejudicing the petitioner inasmuch as, without affording any adequate opportunity of hearing or assigning any reason.

Shri Gautam Kejriwal, learned counsel for the petitioner states that without prejudice to the respective rights and contentions of the parties, petitioner is ready and willing to deposit a sum of Rs. 10 lacs with the appropriate authority within a period of two weeks from today.

Statement accepted and taken on record.

It stands clarified that deposit of such amount would be without prejudice to the respective rights and contentions of the parties and the order which the authority may pass upon the matter being remanded for consideration afresh.

As such, purely on a limited ground, we quash and set aside the impugned order dated 30.11.2019 passed by the Respondent No.2, the Joint Commissioner of Sate Taxes, Danapur Circle, Patna for the period 1st quarter of 2017-18 under Section 73(9) & (50) of Bihar Goods and Service Tax Act, 2017, as contained in Annexure-8 series, with further mutually agreeable directions that- (a) the petitioner shall deposit a sum of Rs. 10 lacs with the authority on or before 6th February, 2021; (b) the petitioner shall appear before the authority on 6th February, 2021 in his office at 10:30 A.M., on which date he shall place on record additional material, if so required and desired; (c) also, further opportunity shall be afforded to the parties to place additional material, if so required and desired; (d) petitioner undertakes to fully cooperate and not take any unnecessary adjournment; (e) the authority shall decide the matter on merits, in compliance of the principles of natural justice, on or before 3rd April, 2021; (f) liberty reserved to the parties to take recourse to such remedies as are otherwise available in accordance with law; (g) we have not expressed any opinion on merits and quashed the order only on the ground of violation of principles of natural justice. (h) if necessary, proceedings during the time of current Pandemic [Covid-19] would be conducted through digital mode; (i) needless to add, with the passing of the order, if it is eventually found that deposit made by the petitioner is in excess of the amount determined due and payable, the same shall positively be refunded expeditiously as per the provisions of the statute.

The instant petition stands disposed of in the aforesaid terms.

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

(Sanjay Karol, CJ)

(Prabhat Kumar Singh, J)

anil/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	