IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3124 of 2022

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Ingram Micro-India Pvt. Ltd. registered company having its registered office at the 5th floor, Building 1, Empire Plaza, LBS Marg, Vikhroli West, Mumbai- 400083 through its authorized representative and Branch Manager namely Sanjay Kumar, male, aged about 44 years, Son of Bodh Narayana, Resident of 46, Janta More, Mohanpur, Jamalpur, Monghyr, Bihar- 811214.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner Department of State Taxes, New Secretariat, Bailey Road, Patna.
2. The Secretary cum Commissioner, Department of State Taxes, New Secretariat, Bailey Road, Patna.
3. The Joint Commissioner of State Taxes, Patliputra Circle, Patna.
4. The Assistant Commissioner of State Taxes, Patliputra Commercial Taxes Circle, Patna. (2013-2014).

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate Mr. Atal Bihari Pandey, Advocate Mr. Alok Kumar Jha, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7

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

Date : 28-02-2022

Heard learned counsel for the parties.

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

(a) For issuance of writ in the nature of certiorari for quashing of the ex - parte order of assessment dated 31.03.2021 and the consequential notice of demand dated 03.12.2021 passed and issued by the respondent number 4 in exercise of powers under section 31 (1) of the Bihar Value added tax act 2005 (hereinafter referred to as the VAT act 2005 for short);

(b) For further issuance of a writ or order or direction upon the learned commercial taxes tribunal Bihar Patna to decide expeditiously or within a timeframe as may be directed by this honourable court the Second Appeal Case Number PT - 160 OF 2019 filed by the petitioner against the first appellate order passed by the concerned appellate authority with respect to financial year 2013 – 2014 in the matter of the petitioner;

(c) For further issuance of a writ or order or direction restraining the respondent No. 3 and/or respondent number 4 from passing any fresh order of assessment with respect to all such issues which are pending adjudication before learned commercial taxes tribunal Bihar Patna in the aforesaid Second Appeal Case Number PT - 160 of 2019;

(d) For further issuance of a writ or order or direction restraining the respondent number 4 from taking any coercive action against the petitioner for recovery of the amount in demand in terms of the impugned order of assessment dated 31.03.2021 and the demand notice dated 03.12.2021 during the pendency of the present writ application or any other proceeding before any other forum;

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

Petitioner has prayed for quashing of the ex-parte order of assessment dated 31.03.2021 passed by Respondent No. 4, namely the Assistant Commissioner of State Taxes, Patliputra Commercial Taxes Circle, Patna (Annexure-2) as also the consequential notice of demand dated 03.12.2021 passed by Respondent No. 4 namely the Assistant Commissioner of State Taxes, Patliputra Commercial

Taxes Circle, Patna (Annexure-2/A) as also for a direction to the Commercial Taxes Tribunal, Bihar, Patna to decide the Second Appeal Case No. PT-160 of 2019 expeditiously.

Shri Vivek Prasad, learned Government Advocate No. 7, states that the assessment proceedings will continue. However, no final order shall be passed till such time the appeal is decided by the Tribunal. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

Having heard learned counsel for the parties as also perused the record made available, we dispose of the present petition in the following mutually agreeable terms:-

(a) We quash and set aside the impugned order dated 31.03.2021 passed by Respondent No. 4, namely the Assistant Commissioner of State Taxes, Patliputra Commercial Taxes Circle, Patna (Annexure-2) as also the consequential notice of demand dated 03.12.2021 passed by Respondent No. 4 namely the Assistant Commissioner of State Taxes, Patliputra Commercial Taxes Circle, Patna (Annexure-2/A);

(c) We accept the statement of the petitioner that twenty per cent of the total amount in demand shall be deposited by the petitioner before the appropriate authority within a period of two weeks from today;

(d) This deposit shall be without prejudice to the respective rights and contentions of the parties and subject to the order passed by the Appropriate Authority. However, if it is ultimately found that the petitioner’s deposit is in excess, the same shall be refunded within two months from the date of passing of the order;

(f) Petitioner undertakes to appear before the Tribunal on 7th of March, 2022 at 10:30 A.M., if possible through digital mode;

(g) The Tribunal shall decide the appeal [Second Appeal Case No. PT-160 of 2019] on merits after complying with the principles of natural justice;

(h) Opportunity of hearing shall be afforded to the parties to place on record all essential documents and materials, if so required and desired;

(i) During pendency of the appeal, no coercive steps shall be taken against the petitioner.

(j) The Tribunal shall pass a fresh order only after affording adequate opportunity to all concerned, including the writ petitioner;

(k) Petitioner through learned counsel undertakes to fully cooperate in such proceedings and not take unnecessary adjournment;

(l) The Tribunal shall decide the appeal on merits expeditiously, preferably within a period of four weeks from the date of appearance of the petitioner;

(m) The Tribunal shall pass a speaking order assigning reasons, copy whereof shall be supplied to the parties;

(n) Liberty reserved to the petitioner to challenge the order, if required and desired;

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

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

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

(r) If possible, proceedings during the time of current Pandemic [Covid-19] be conducted through digital mode;

The instant petition sands disposed of in the aforesaid terms.

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

Shri Vivek Prasad, learned Government Advocate No. 7 undertakes to communicate the order both to the Assessing Officer as also the Appellate Authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	03.03.2022
Transmission Date	