IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3613 of 2022

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Polycab India Ltd. (Formerly Known as Polycab Wires Private Limited) having its Place of Business at Plot No. 1780, Sampatchak, Patna Bihar-800007 through its Authorized representative namely Santosh Kumar, Male aged About 39 Yeats son of Suresh Prasad Resident of 130, Sidheshwar Nagar, Mainpura, Near Devi Mandir, Patna GPO, Patna Bihar-800001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secreary Cum Commissioner, Department of Commercial Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Taxes (Appeals), Patna West Division, Patna.
3. The Joint Commissioner of State Taxes, West Circle, Patna.
4. The Assistant Commissioner of State Taxes, West Circle, Patna. (2015-2016 Bihar Entry Tax Act 1993)

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Gautam Kumar Kejriwal, 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 : 07-03-2022

Petitioner has prayed for the following relief(s):

a) For issuance of a writ or order for quashing of the ex parte order dated 28.01.2022 passed by the Additional Commissioner of State Taxes [Appeals] Patna West Division Patna [hereinafter referred to as the appellate authority for short] in Appeal Case Number ST/PTW – 03/2021 – 2022 whereby the appeal has been rejected by the said appellate authority despite a request for adjournment made by the learned counsel on grounds of physical fitness of the leading counsel;

b) For issuance of a writ in the nature of certiorari for quashing of the impugned notice bearing process number 01 dated 22.02.2022 whereby all the bank accounts of the petitioner existing in various banks have been attached by the respondent No. 3 as a result of dismissal of appeal;

c) For issuance of a direction upon the respondent appellate authority to grant adequate opportunity of hearing to the petitioner and decide appeal case number ST/PTW – 03/2021 – 2022 afresh;

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

It is not in dispute that the petitioner has now preferred an appeal assailing the order dated 28.01.2022 (Annexure-2) passed by the Additional Commissioner of State Taxes (Appeal), West Division, Patna in Appeal Case No. ST/PTW-03/2021-2022.

Shri Gautam Kumar Kejriwal, learned counsel for the petitioner, states that petitioner shall be content if a direction is issued to the Commercial Tax Tribunal to consider and decide the second appeal expeditiously and preferably within a period of four weeks from today. He also states that 40% of the impugned amount already stands deposited.

Learned counsel for the Revenue, states that he has no objection and the second appeal shall be considered and decided expeditiously preferably within a period of four weeks, subject to the petitioner co-operating and complying with the statutory provisions.

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) Petitioner shall appear before the Appellate Tribunal on 14.03.2022 at 10:30 A.M.;

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

(c) The communication dated 22.02.2022 issued by the Joint Commissioner of State Tax, Patna West Circle, Patna (Annexure-3 Page 22) whereby the petitioner's accounts stand attached, is quashed and the account stands de-attached, more so in view of the statement made by Shri Gautam Kumar Kejriwal that 40 per cent of the impugned demand already stands deposited.

(d) The second appeal shall be heard and decided on merits, in accordance with law, subject to fulfillment of condition of pre-deposit;

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

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

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

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

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

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

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

(l) 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;

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

The instant petition sands disposed of in the aforesaid terms.

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

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	10.03.2022
Transmission Date	