IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3527 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, Near Usha Martin Global School, Sampatchak, Patna Bihar - 800007 through its authorized representative namely Santosh Kumar, male aged about 39 years 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 Secretary 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 Value Added Tax Act, 2005)

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Mukund Kumar, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP7)

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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

Heard learned counsel for the parties.

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

a) For issuance of a writ or order for quashing of the 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 – 01/2021 – 2022 whereby the appeal has been rejected by the said appellate authority despite the direction of this honourable court to dispose of the aforesaid appeal within two months from the date of receipt/production of a copy of the order dated 25.01.2022 passed by a bench of this honourable court presided by honourable the Chief Justice and honourable Mr justice S. Kumar in CWJC number 829 of 2022;

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 ensure hearing of the aforesaid appeal case number ST/PTW – 01/2021 – 2022 in compliance of the order dated 25.01.2022 passed by a bench of this honourable court in CWJC number 829 of 2022;

d) For grant of interim stay on the operation of 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, pending the disposal of the Writ Petition;

e) For grant of interim stay on any recovery action by the Respondents, their servants, officers and agents, by any means whatsoever, pursuant to the impugned order dated 28.01.2022 passed in Appeal Case Number ST/PTW – 01/2021 – 2022, pending disposal of the writ petition;

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

Learned counsel for the petitioner states that by passing an *ex parte* order, the Appellate Authority, namely the Additional Commissioner of State Taxes (Appeals), Patna West Division, Patna has dismissed the petitioner's appeal being Appeal Case No. ST/PTW-01/2021-2022 vide order dated 28.01.2022 (Annexure-3) and pursuant to the said order, Bank Account of the petitioner has been attached vide letter dated 22.02.2022 issued by the Joint Commissioner of State Tax, Patna West Circle, Patna (Annexure-5).

Learned counsel for the petitioner further states that petitioner has already challenged the said order dated 28.01.2022 passed by the Additional Commissioner of State Taxes (Appeals), Patna West Division, Patna in Appeal Case No. ST/PTW-01/2021-2022 (Annexure-3) before the Commercial Taxes Tribunal, Bihar, Patna. As such, the relief contained in Para 1(a) of the writ petition is not pressed. Further, the petitioner shall pursue his appeal before the learned Commercial Taxes Tribunal, Bihar, Patna.

Learned counsel for the petitioner further submits that the petitioner has already deposited 10 per cent of the amount in demand, as was directed by this Court vide order dated 25.01.2022 passed in CWJC No. 829 of 2022, titled as Polycab India Ltd. Vs. The State of Bihar & Ors.

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 letter dated 22.02.2022 issued by the Joint Commissioner of State Tax, Patna West Circle, Patna (Annexure-5);

(b) We accept the statement of the petitioner that over and above the amount already deposited, additional ten per cent of the total amount in demand shall be deposited by the petitioner with the department within a period of four weeks from today;

(c) This deposit shall be without prejudice to the respective rights and contention of the parties and subject to the order passed by the learned Tribunal. 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;

(d) We also direct for de-freezing/de-attaching of the bank account(s) of the writ-petitioner, if attached in reference to the proceedings, subject matter of present petition. This shall be done immediately.

(e) Petitioner undertakes to appear before the learned Commercial Taxes Tribunal, Bihar, Patna on 14th of March, 2022 at 10:30 A.M., if possible through digital mode;

(f) The learned Tribunal shall condone the delay, if any, in filing the appeal and decide the appeal on merits after complying with the principles of natural justice;

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

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

(i) The Appellate Authority shall pass a speaking order only after affording adequate opportunity to all concerned, including the writ petitioner;

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

(k) The learned Tribunal shall decide the appeal on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

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

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

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

(o) 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;

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

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

The instant petition stands 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 orally communicate the order to the appropriate authority during the course of the day.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	09.03.2022
Transmission Date	