IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4589 of 2022

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Alkem Laboratories Ltd., a limited company incorporated under the Companies Act, 1956, having its office at Exhibition Road, Patna, Police Station-Gandhi Maidan, District-Patna, through its Regional Director, Ashok Kumar, male, aged about 58 years, son of Late Lalan Kumar Singh, resident of F-145, P.C. Colony, Kankarbagh, Patna-800020, Police Station-Kankarbagh, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary-cum-Commissioner of State Tax, Bihar having its office at Vikas Bhawan, Bailey Road, Patna.
2. The Deputy Commissioner of State Tax, Special Circle, Patna.
3. The Assistant Commissioner of State Tax, Special Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Parijat Saurav, Advocate
For the Respondent/s	:	Mr.Vikash Kumar (SC 11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-04-2022

The petitioner has prayed for the following relief/s :-

> "For issuance of a writ in the nature of Certiorari or any other appropriate writ or order for quashing of ex-parte assessment order dated 28.02.2022 under Section 31 of the Bihar Value Added Tax Act, 2005 issued by the respondent no.3 and the consequential demand notice in Form NVIII [Notice Id; N110144794535981] dated 28.02.2022 for period 01/04/2016 of 31.03.2017

under which additional demand of Rs. 8,67,51,293.58/- of VAT with interest of Rs.7,72,08,651.29/- has been raised. The total tax liability of the petitioner under Bihar VAT Act is assessed ex parte at Rs.30,20,79,812.58/- out of which the already paid amount of Rs.21,53,28,519/- of VAT has been raised alongwith interest of Rs.7,72,08,651.29/- and further be pleased to remand the matter back to the respondent no.2 and 3 for fresh consideration on merits after hearing the petitioner.

ii) For issuance of any other appropriate writ, order or direction which Your Lordships may deem fit and proper in the facts and circumstances of the case.”

Learned counsel for the petitioner seeks permission to withdraw the present petition reserving liberty to prefer an appeal against the impugned order dated 28.02.2022 before the Appellate Authority.

Permission granted.

Shri Vikash Kumar, learned Standing Counsel No. 11, states that if such an appeal is preferred within a period of four weeks from today and conditions of pre-deposit are complied with, the same shall be heard and decided on merits within a period of six months. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

As such, petition stands disposed of in the following mutually agreeable terms:-

(a) Petitioner is permitted to prefer an appeal against the impugned order dated 28.02.2022, passed by Respondent No. 3, namely, the Assistant Commissioner of State Tax, Special Circle, Patna, within a period of four weeks;

(b) Petitioner shall deposit ten per cent of the total amount, being condition prerequisite for hearing of the appeal, before the next date, if already not deposited. If that were so, the appeal shall be decided on merits by passing a speaking order;

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

(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 Appellate Authority on 20.04.2022;

(f) The Appellate Authority shall condone the delay 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 an 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 Appellate Authority shall decide the appeal on merits expeditiously, preferably within a period of six months from the date of appearance of the petitioner;

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

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

(n) 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;

(o) 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)

Ashwini/Sujit

AFR/NAFR	
CAV DATE	
Uploading Date	11.04.2022
Transmission Date	