IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4868 of 2022

==

Piditile Insudtries Limited, a Company incorporated Under the Provisions of the Companies Act and having its Authorised Signatory, Sunil Kumar Poddar, aged about 45 Years (Male), Son of Shankar Lal Poddar, Resident of 75 Ashok Palace, A Block, P.S. GPO, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar, through the Commissioner, Commercial Taxes department, Government of Bihar, Viks Bhawan, Bailey Road, Patna-800001.
2. The Commissioner, Commercial Taxes Department, Government of Bihar, Vikas Bhawan, Bailey Road, Patna-800001.
3. The Additional Commissioner of State Tax (Appeal), Central Division, Patna.
4. The Joint Commissioner of Commercial Taxes, Central Division, Bihar.
5. The Assistant Commissioner of Commercial Taxes, Patna Special Circle, Patna.
6. The Deputy Commissioner, State Tax, Special Circle Patna.

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr.Suraj Samdarshi, Advocate

For the Respondent/s : Mr.Vivek Prasad, GP-7

==

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

Date : 18-04-2022

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

"i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the order contained in memo no. 115 dated 02.03.2022 (Annexure 4) passed by the Additional Commissioner of State Tax (Appeal), Central Division, Patna by which the review petition of the petitioner directed against the order contained in memo no. 99 dated 21.02.2022 has been dismissed on wholly erroneous grounds and without considering the facts and circumstances of the case.

ii) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the order contained in memo no. 99 dated 21.02.2022 (Annexure 5) passed by the Additional Commissioner of State Tax (Appeal), Central Division, Patna by which the appeals filed by the petition pertaining to the assessment period 2011-2012; 2012-2013 and 2013-2014, in compliance of orders dated 04.01.2022 passed by this Hon'ble Court in CWJC No. 19839/2021, CWJC No. 19821 and CWJC No. 19838/2021 were rejected on the grounds that the same was not preferred within the time frame of four weeks as directed by this Hon'ble Court.

iii). To issue an appropriate writ, order or direction in the nature of mandamus commanding the respondent authority to accept the appeals filed by the petitioner on 08.02.2022 and to dispose of the same on merits as directed by this Hon'ble Court.

iv) During the pendency of this writ application to issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents not to take any coercive steps against the petitioner for the recovery of disputed tax amount, and interest.

v) This Hon'ble Court may further adjudicate and hold that the respondents cannot shrug off their responsibility to decide the dispute on mere technical grounds of delay in filing appeal."

It is brought to our notice by the learned counsel for the petitioner that appeals preferred by the petitioner before the appellate authority, as per the direction of the Hon'ble Court in CWJC No. 19821 of 2021, titled as **Piditile Industries Limited Vs. the State of Bihar & Ors.;** CWJC No. 19838 of 2021, titled as **Piditile Industries Limited Vs. the State of Bihar & Ors.** and CWJC No. 19839 of 2021 titled as **Piditile Industries Limited Vs. the State of Bihar & Ors.;** of the financial year 2012-2013; 2013-2014 and 2011-12 respectively, stand dismissed on 21.02.2022 by the Additional Commissioner of State Tax (Appeal) merely on the grounds of being barred by limitation. Also, the review petition, preferred against the said order, stands dismissed by the appellate authority on 02.03.2022.

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Appellate Authority for deciding the appeals afresh. Also, while considering and deciding the appeals, the ground of delay shall not be taken into account and the appeal shall be decided on merits. Also, during pendency of the appeals, 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 orders dated 02.03.2022 and 21.02.2022 passed by the Additional Commissioner of State Tax (Appeal) Central Division, Patna for the period 2011-12, 2012-13 and 2013-14.

(b) The appeals are restored to their original file and number;

(c) We accept the statement of the petitioner that ten per cent of the total amount, being condition prerequisite for hearing of the appeals, already stands deposited. If that were so, the appeals shall be decided on merits. However, if the amount is not deposited for whatever reason(s), same shall be done before the next date;

(d) 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;

(e) 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.

(f) Petitioner undertakes to appear before the Appellate Authority concerned on 09.05.2022 at 10:30 A.M., if possible through digital mode;

(g) The Appellate Authority shall condone the delay in filing the appeals and decide the appeals 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 appeals, no coercive steps shall be taken against the petitioner.

(j) The Appellate Authority 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 Appellate Authority shall decide the appeals on merits expeditiously, preferably within a period of two months from the date of appearance of the petitioner;

(m) The Appellate Authority 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.

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	20.04.2022
Transmission Date	