

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12373 of 2021

=====

Loreal India Pvt. Ltd. Having its Registered Office at At-A-Wing, 8th Floor, Marathon Futurex, N.M. Joshi Marg, Lower Parel, Mumbai-400013 through its Tax Head, Mr. Anand Nagda male aged About 42 Years S/o Narendra Nagda resident of B3504, Atmosphere by Wadhwa, Mulund-Goregaon Link Road, Mulund (W), Mumbai-400080

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Ministry of Finance, Bihar Patna Having its Office at Vikas Bhawan, Patna.
2. The Assistant Commissioner of Commercial Taxes Patna, Patna.
3. The Asst. Commissioner (PVT.), 5th Floor, Central Revenue Building, Birchand Patel Marg, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Prakash Shah, Advocate
Mr. Gautam Kumar Kejriwal, Advocate
Mr. Rajan Mishra, Advocate

For the Respondent/s : Mr. Vikash Kumar, SC-11

=====

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

=====

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

=====

Date : 24-01-2022

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



- a) this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari under Article 226 of the Constitution of India, calling for the order dated 01.03.2021 passed by the Id. Additional Commissioner (Appeals) and after going into the validity and legality thereof to quash and set aside the same;
- b) that pending disposal of the present petition this Hon'ble court be pleased to stay the operation of order dated 01.03.2021 passed by the Id. Additional Commissioner (Appeals);
- c) for ad-interim relief in terms of prayer clause (b);
- d) cost of the Petition may please be provided for;
- e) for such further and other reliefs as the nature and circumstances of the case may require;

It is brought to our notice that vide impugned order dated 01.03.2021 passed by the Additional Commissioner of State Taxes(Appeal), Central Division, Patna in ST/SL-160/2018-19, the appeal of the petitioner against the order dated 31.01.2019 passed by the Deputy Commissioner of State Taxes, Patna in CST/TIN-



10010314156 has been rejected.

Learned counsel for the Revenue, states that he has no objection if the matter is remanded to the Assessing Authority for deciding the case afresh, on merits. Also, during pendency of such assessment, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

However, having heard learned counsel for the parties as also perused the record made available, we are of the considered view that this Court, notwithstanding the statutory remedy, is not precluded from interfering where, *ex facie*, we form an opinion that the order is bad in law. This we say so, for two reasons- (a) violation of principles of natural justice, i.e. Fair opportunity of hearing. No sufficient time was afforded to the petitioner to represent his case; (b) order passed does not assign any reasons sufficient, even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order passed in violation of the principles of natural justice, entails civil consequences. As such, on this short ground alone, we dispose of the present writ petition in the following mutually agreeable terms:

(a) We quash and set aside the impugned order dated 01.03.2021 passed by the Additional Commissioner of State



Taxes(Appeal), Central Division, Patna in ST/SL-160/2018-19.

(b) We accept the statement of the petitioner that 20 per cent of the total amount, being condition prerequisite for hearing of the appeal, already stands deposited. If that were so, well and good. However, if the amount is not deposited for whatever reason(s), same shall be done before the next date;

(c) This deposit shall be without prejudice to the respective rights and contention of the parties and subject to the order passed by the Assessing Officer. However, if it is ultimately found that the petitioner had already deposited up to the extent of 20%, cumulatively required to be deposited in all the cases under assessment, the same shall be set off against the amount to be deposited. Also, if the deposit is found to be in excess of what would stand adjudicated, 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 Assessing Authority on 14.02.2022 at 10:30 A.M., if possible



through digital mode;

(f) We also find the authorities not to have adjudicated the matter on the attending facts and circumstances. All issues of fact and law ought to have been dealt with, even if the proceedings were to be ex parte in nature;

(g) The Assessing Authority shall decide the case 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 assessment, no coercive steps shall be taken against the petitioner.

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



(m) The Assessing 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 before this Court, if so 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 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 stands 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	27.01.2022
Transmission Date	

