IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11399 of 2022

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M/s Billion Polycraft Pvt. Ltd. a company Registered under the Companies Act the having its office at Fatehjungpur, Sabalpur, Patna City, P.S - Didarganj, District Patna through its authorized representative - Sandeep Chandra, aged about 42 years (Male), Son of Sakaldeep Roy, Resident of Khajekalan, Pani Tanki Road, P.S. - Gaurichak, District - Patna.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
2. Deputy Commissioner, Central Goods and Services Tax and Central Excise Division - Patna (West), 6th Floor, Karpuri Thakur Sadan, Rajiv Nagar, Patna.
3. Commissioner, Central Goods and Services Tax and Central Excise, Patna - I, 3rd Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna - 800001.
4. The State of Bihar through the Secretary-Cum-Commissioner-Commercial Taxes, Govt. of Bihar, Vikas Bhawan, Patna.
5. The Secretary-Cum-Commissioner-Commercial Taxes, Govt. of Bihar, Vikas Bhawan, Patna.
6. The Additional Commissioner State Tax (Appeals), Central Division, Patna.
7. The Joint Commissioner, State Taxes, Patna City East, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhishek Kumar, Advocate
		Mr. Madan Kumar, Advocate
		Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC CGST & CX
		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 : 17-08-2022

Heard learned counsel for the parties.

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

a. For issuing a writ of certiorari or any other appropriate writ, order or direction; setting aside the intimation dated 18.07.2022 (Annexure-P/1) whereby and whereunder the petitioner was informed that some amount of ITC available in the Electronic Credit Ledger of the Petitioner was blocked.

b. For issuing a writ of Mandamus or any other appropriate writ, order or direction directing the respondents to produce such order(s) and/or letter(s) whereby and whereunder the ITC available in the Electronic Credit Ledger of the Petitioner owing to the transaction pertaining to M/s Sawariya Trading Company (for period August 2018) was blocked.

c. For issuing a writ of certiorari or any other appropriate writ, order or direction; setting aside order(s) and/or letter(s) so produced whereby and whereunder the ITC available in the Electronic Credit Ledger of the Petitioner owing to the transaction pertaining to M/s Sawariya Trading Company (for period August 2018) was blocked.

d. For restraining the respondents from taking any steps to make recovery of the ITC amount so blocked in the tune of Rs. 5,64,480/- under the head of IGST.

e. For awarding costs of this Petition;

f. For such other or further order/s or direction as the Hon'ble Court may deem fit and proper in the facts and circumstances of the case and;

g. Any other relief or reliefs which the Petitioner may be found entitled to.

We do not find the respondents to have complied with the provisions of Rule 86A of the Central Goods and Services Tax Rule, 2017. No notice or intimation prior to passing of the order dated 18th of July, 2022 (Annexure-P/1 Page 26) posted on e-mail blocking the Input Tax Credit (ITC) was ever issued to the petitioner. Also, the order does not assign any reasons in determination of the action, based on the materials available with the officer, in blocking the account.

As such, on this short ground alone, we quash and set aside the order dated 18th of July, 2022, passed by Respondent no. 7, namely the Joint Commissioner, State Taxes, Patna City East, Patna (Annexure-P/1 Page 26) with liberty to pass a fresh order after issuing notice/intimation to the petitioner and seeking explanation in terms thereof.

Needless to add, the order assigning reasons shall be passed within a period of eight weeks and communicated to the petitioner.

Liberty reserved to the petitioner to take recourse to such remedies as are otherwise available under law, should the need so arise subsequently.

The present petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	18.08.2022
Transmission Date	