

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17295 of 2022

Navodit Projects Private Limited through Director Pramod Kumar, male aged 33 years, son of Ramvilash Yadav, C/o Ashok Kumar Yadav, Village Sukmapur Post- Satipur Urf Sukmapur, Darbhanga Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes Bihar, New Secretariat, Patna.
2. The Joint Commissioner of Commercial State Tax Darbhanga Circle, Darbhanga, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs.Archana Sinha @ Archana Shahi
For the Respondent/s : Mr.Vikash Kumar (SC 11)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

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 : 16-12-2022

Petitioner has prayed for the following relief(s):

“ (i) For issuance of writ of certiorari, quashing of Assessment Order dated 15.1.2021 and demand order dated 15.1.2021 for period October 2019 to March 2020 (Annexure- 1 series).

(ii) For quashing of demand order dated 15.1.2021 for the period October 2019 to March 2020.

(iii) For any other consequential relief or



reliefs for which the petitioner is found entitled during course of hearing of this writ petition.”

It is brought to our notice that vide impugned assessment and demand orders dated 15.01.2021 passed by the Respondent No. 2, namely the Joint Commissioner of Commercial State Tax, Darbhanga Circle, Darbhanga, Bihar, the input tax credit claim of the petitioner has been rejected and tax amounting to Rs. 36,42,526.04, including interest and penalty, has been imposed, without providing any further notice to the petitioner.

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. Also, the case shall be decided on merits. Also, during pendency of the case, 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 *ex parte* in nature, does not assign any sufficient reasons even decipherable from the record, as to how the officer could determine the amount due and payable by the assessee. The order, *ex parte* in nature, 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 assessment and demand orders dated 15.01.2021 passed by the Respondent No. 2, namely the Joint Commissioner of Commercial State Tax, Darbhanga Circle, Darbhanga, Bihar;

(b) The petitioner undertakes to deposit twenty per cent of the amount of the demand raised before the Assessing Officer. This shall be done within four weeks.

(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'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 Assessing Authority on 04.01.2023 at 10:30 A.M., if possible through digital mode;

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

(i) The Assessing Authority shall pass a fresh 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 Assessing Authority shall decide the case on merits expeditiously, preferably within a period of two



months from the date of appearance of the petitioner;

(l) The Assessing Authority 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 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)

(Partha Sarthy, J)

K.C.Jha/-DKS

AFR/NAFR	
CAV DATE	
Uploading Date	20.12.2022
Transmission Date	

