IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4406 of 2023

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BSC-C and C JV a Joint Venture between BSCPL Infrastructure Ltd. and C and C Constructions Ltd. having its Office at Plot No. 155, Village Daulatpur, Post - Garhuchak, NH - 30, P.S. Fatuha, Patna, Bihar - 803201 through its authorized signatory Shri. Jagarapu Uma Maheswara Rao (Male) aged about 52 years son of Jagarapu Sriramamurthy, resident of 4-23/2, Opposite Durge Temple, Madhurawada, Visakhapatnam (Rural), Visakhapatnam, Andhra Pradesh - 530041 at present residing at Plot No. 155, Village Daulatpur, Post-Garhuchak, NH - 30, P.S. - Fatuha, Patna, Bihar - 803201.

... ... Petitioner/s

Versus

1. The State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Asst. Commissioner of State Tax, East Circle, Muzaffarpur, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate
For the Respondent/s	:	Mr. P. K. Shahi, AG
		Mr. Vivek Prasad (GP-7)
		Ms. Roona, Advocate
		Mrs. Manisha Singh, Advocate
		Mr. Sanjay Kumar, Advocate
		Ms. Supragya, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

9 18-12-2023 The petitioner is aggrieved with the show cause notice issued and contends that the entire tax liability has been mulcted on the petitioner by reason of an arbitration award, obtained by the petitioner on which payments have not yet been made. It is also submitted that there is an application under Section 34 of the Arbitration and Conciliation Act, 1996, objecting to the award filed before the District Judge, Patna,

which is pending as of now. The petitioner apprehends that this contention will not be taken into account by the Assessing Officer, especially since there would be no liability insofar as the money not received as yet, as per the arbitration award.

2. It may not be proper for us to exercise the jurisdiction under Article 226 regarding the apprehension raised by the petitioner. Learned Advocate General, who appears on our specific request also points out that the limitation for assessment would be over by 31.12.2023.

3. In the above circumstances, we are of the opinion that the petitioner has to reply to the show cause notice and an order passed in the assessment. The learned counsel for the petitioner has sought for one weeks' time to file a reply to the show cause notice. The reply would be filed on or before 26.12.2023. A hearing would be conducted by the Assessing Officer on 27.12.2023 and the petitioner would be present before the Assessing Officer at 11:00 a.m. on the said date. The Assessing Officer would hear the petitioner and pass a speaking order within 2 weeks from the date of hearing. It is made clear that limitation would stand extended up to that date since we are exercising our jurisdiction under Article 226 and enabling the petitioner to file a proper explanation to the show cause notice

as requested by the petitioner himself, within 1 week from today. We also make it clear that the specific contentions raised by the petitioner in the show cause notice, especially the contention with respect to arbitration award and challenge raised therefrom will be considered by the Assessing Officer.

4. The writ petition would stand disposed of without any observation on merits.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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