**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.16967 of 2022**

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Param Enterprises Pvt. Ltd. a registered company having its one of the officers at Diamond Apartment, Flat No. - D3, third floor, Rajendra Path, Free Press Lane, Patna- 800001 through its authorised representative namely Saurav Verma male aged about 33 years son of Mr. Giridhar Gopal Verma resident of C/62, Renuka Bhawan, Flat Number- 102, K- Sector, Patrakar Nagar, Hanuman Nagar, Kankarbagh, Patna, Bihar- 800020

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Joint Commissioner of State Taxes, North Circle, Patna.
4. The Assistant Commissioner of Commercial Taxes (Audit 1.4) D.V.O.-1, Bangalore, Karnataka.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Gautam Kumar Kejriwal, Advocate
For the Respondent/s : Mr.Vivek Prasad, GP-7

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE HARISH KUMAR**

**CAV JUDGMENT**
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 01-04-2024**

The petitioner, who was registered under the Bihar Value Added Tax Act, is concerned with the purchases made Inter-State in the assessment year 2016-17 covered under the Central Sales Tax Act, 1956. The petitioner had intended to purchase certain goods from Karnataka, but though the name of the company was same, in the C-Form delivered to the purchaser, the company location was shown to be at Maharastra.

This was just a clerical error and the petitioner seeks correction of the same. The petitioner has also impleaded the Assistant Commissioner of Commercial Taxes, Bangalore, Karnataka, who is the Assessing Officer of the supplier of the petitioner.

2. The petitioner has filed the above writ petition since huge liability has been cast on the supplier, treating the Inter-State Sales as Intra-State Sales; declining acceptance of the C-Form issued in the name of a company at Maharashtra.

3. Admittedly, the purchase was made from Karnataka, which is evident from Annexure-4, the e-way bill. The purchase was made from one Siemens Rail Automation Pvt. Ltd., Karnataka by the petitioner herein and the total value came to Rs. 2,97,93,690/-. The petitioner had down loaded a Form-C for the identical amount, which is produced at Annexure-5. However, the C-Form was issued to one Siemens Ltd. Maharastra, which is said to be a bona fide mistake.

4. The learned Government Advocate has also specifically referred to Rule-9 of the Central Sales Tax (Bihar Amendment) Rules, 2016 by a *non-obstante* clause. The Commissioner was empowered to bring out a notification imposing such conditions and restrictions, subject to which declarations or certificates under the various provisions, could

be obtained, amended or cancelled. The second proviso also restricted such prescription of process of cancellation or amendment to only those declarations or certificates, which have been issued by the departmental software, prior to 10.10.2015. Again the Commissioner had permitted such cancellation and amendment between 10.11.2016 to 09.02.2017; by only of declarations and certificates issued prior to 10.10.2015. There can be no such cancellation or amendment made to the declarations or certificates issued after 10.10.2015.

5. The present case is a genuine mistake committed by the employees of the petitioner and we find absolutely no attempt to evade tax. Admittedly, there was an Inter-State transaction as is evident from the e-way bill, for which purpose, on the identical value of goods, a C-Form was obtained from the department so as to substantiate the Inter-State purchase made. The tax levy would be reduced under the CST Act for the supplier, which reduced tax was paid by the petitioner herein. The refusal of the authority at Karnataka to accept the C-Form has resulted in the supplier of the petitioner being denied the concessional rate of tax under the CST Act, which would result in the supplier seeking recovery from the petitioner herein.

6. The 4th respondent impleaded, who is the Assessing

Officer of the supplier, also does not have any objection, who is also represented by the Government Advocate.

7. True, the Commissioner could have prescribed the manner in which cancellations or amendments of declarations and certificates issued only prior to 10.10.2015. The statute also provides for such corrections, but within a particular period. If the correction has not been made by an inadvertent omission, then this Court, sitting in jurisdiction under Article 226, could definitely extend the equitable jurisdiction. There is no tax loss caused and a bona fide mistake has been pointed out by the assessee/ petitioner and the tax authority does not have a case of any attempt to evade tax. This is the particular circumstance in which the equitable jurisdiction can be extended and we do so.

8. We direct the tax authorities to cancel the C-Form issued, on production of the same in original. The 4th respondent shall, on an application made by the supplier of the petitioner, hand over the C-Form produced, which shall be produced before the Assessing Officer of the petitioner, along with an affidavit of undertaking specifically indicating the transaction and also accepting any liability with respect to any discrepancy subsequently noticed. On such affidavit being filed, either the on-line portal shall be opened for a specific period for down

loading the C-Form or the tax authority shall issue the manual C-Form, which shall be transmitted to the supplier for due production before the Assessing Officer or the Appellate Authority, as the case may be.

9. With the above directions, the writ petition stands allowed.

**(K. Vinod Chandran, CJ)**

I agree.
**Harish Kumar, J:**

**(Harish Kumar, J)**

Sujit/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | 28.03.2024 |
| **Uploading Date** | 01.04.2024 |
| **Transmission Date** | |