IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15104 of 2019

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M/s Vishwanath Iron Store, a partnership firm, having its address at Pani Tanki Road, Allahabad Bank Side, Dehri on Sone, P.O. and P.S.- Dehri, District- Rohtas, through its partner Arvind Kumar Sharma, son of Jagarnath Sharma, Pani Tanki Road, Allahabad Bank Side, Dehri on Sone, P.O. and P.S.- Dehri, District- Rohtas.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Commercial Tax Department, Govt. of Bihar.
2. The Commissioner of State Tax, Bihar, Patna.
3. The Joint Commissioner of State Tax, Sasaram Circle, Sasaram.
4. The Assistant Commissioner of State Tax, Sasaram Circle, Sasaram.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Parijat Saurav, Advocate

For the Respondent/s : Mr. Vikash Kumar (SC11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 14-01-2020 Petitioner has prayed for the following relief(s):-

(i) For issuance of a writ of certiorari or any other appropriate writ, order or direction for quashing of the order in form of show cause notice contained in reference no. ZA100719000010I dated 01.07.2019 issued u/s 73 in form GST DRC-01 passed by the Asst. Commissioner of State Tax, Sasaram Circle, Sasaram, qua the levy of interest of Rs.19,68,689.12/-.

In the order dated 01.07.2019, the claim of Input Tax Credit to the extent of Rs.55,69,823.28/- has been held to be inadmissible and consequentially interest of Rs.19,68,689.12/- has been levied without there being any shortfall in payment of tax/cess, being wholly without jurisdiction and in teeth of the provisions of the Bihar Goods and Service Act, 2017.

(ii) For stay of the order in form of show cause notice contained in reference no. ZA100719000010I dated 01.07.2019 issued u/s 73 in form GST DRC-01 passed by the Asst. Commissioner of State Tax, Sasaram Circle, Sasaram, during the pendency of this writ petition.

(iii) For any other relief which the petitioner may found entitled to.

Learned counsel for the petitioner contends that petitioner's case is squarely covered vide directions issued in judgement dated 27th June, 2019, contained in CWJC No.2125 of 2019, titled as M/s Commercial Steel Engineering Corporation Versus The State of Bihar & Ors.

If that be so, as prayed for, let the authorities examine the issue and the benefits accorded to the writ petitioner in the judgement referred to supra, be also made available to the instant writ petitioner. We clarify that all issues are left open to be considered by the authorities with regard to the petitioner's entitlement.

Learned counsel for the petitioner states that the petitioner shall positively approach the authority concerned within a period of two weeks from today.

We only hope that the authority will take a decision thereupon within a period of four weeks thereafter.

Shri Vikash Kumar, learned counsel for the State states that till such time, decision is taken by the authority, no coercive action shall be taken by the authority concerned, clarifying that if the petitioner fails to approach the authority concerned within the aforesaid period, then it shall be open for the authority to take action, in accordance with law. Statement taken on record.

The writ petition stands disposed of with the aforesaid observations/directions.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

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