

M/S Ayesha Exports A Proprietorship Vs State Of Bihar And Ors

Court: Patna High Court

Date of Decision: Nov. 25, 2020

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Ramesh Kumar Agrawal, Vikash Kumar

Final Decision: Disposed Of

Judgement

Heard the parties.

Petitioner has prayed for following reliefs:-

(I) For issuance of appropriate writ(s), order(s) and / or direction(s) for quashing the order dated 08.09.2018 passed by the respondent State taxes

Addl. Commissioner (Appeal), Purnea in Appeal No.-KS/VAT-CST 3/2016-17 for the period 2014-15 by which he has dismissed the appeal filed by

the petitioner on the ground that the petitioner has not deposited 20% of the assessed tax in spite of the facts that the petitioner has already deposited

20% of the assessed tax much prior to 08.09.2018.

(ii) For issuance of appropriate writ(s), order/(s) and / or direction(s) in the nature of writ of mandamus restraining the respondent officers from

taking any step for realization or collection of the aforesaid amount of tax, penalty and interest mentioned in the aforesaid impugned order of

assessment and demand notice.

(iii) To grant such other consequential relief(s) to the petitioner , which this Hon'ble Court may find the petitioner to be entitled to in equity and/or

in law in the facts and circumstances of the case.

It is submitted by learned counsel for the petitioner that his appeal has been dismissed by the appellate authority only on the ground that he has failed

to pre-deposit 20% of assessed amount which is mandatory for admission of appeal. It is further submitted by learned counsel that petitioner has

already deposited 20% of assessed amount by assessing authority for admission of his appeal before the appellate authority.

Writ petition is disposed of with a direction to the appellate authority that he will verify the submission made by learned counsel for the petitioner that

he has already deposited 20% of assessed amount by the assessing authority for admission of appeal. If the appellate authority comes to a finding that

petitioner / appellant has deposited 20% of the assessed amount for admission of appeal, his appeal may be admitted and decided on merit within 8

weeks from the date of admission of appeal.

It will be open for the petitioner to place additional material, if so required, which shall be considered by the appellate authority in accordance with law.