

(2020) 12 PAT CK 0326

Patna High Court

Case No: Civil Writ Jurisdiction Case No. 8635 Of 2018

M/S S

APPELLANT

Vs

S V S Projects Pvt. Ltd Vs State Of
Bihar And Ors

RESPONDENT

Date of Decision: Dec. 9, 2020

Acts Referred:

- Bihar Value Added Tax Act, 2005 - Section 25, 39

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

Bench: Division Bench

Advocate: Vikas Kumar, Vikash Kumar

Final Decision: Disposed Of

Judgement

Petitioner has prayed for the following relief(s):-

(a) For quashing of notice of demand dated 23.02.2018 under Section 25 and Section 39 of Bihar Value Added Tax 2005 in Form N-VIII for the

period 2014-15 issued by Respondent No. 3 whereby petitioner has been directed to Deposit Rs. 1,10,72,801/- towards amount of Tax, Rs. 57, 74, 466/- towards interest on amount of tax total amounting to Rs. 1,68,47,267/- into the Govt. treasury.

(b) For release of Account No. 20011321728 of Bank of Maharashtra, Sultan Bazar Branch, Hyderabad and Account of 60160712983 of Bank of

Maharashtra, Madhubani Branch, Madhubani of the petitioner, which has been attached by the respondent authorities pursuant to the aforesaid

demand notice dated 23.02.2018 issued under Section 25 and Section 39 of Bihar Value Added Tax 2005 in Form N-VIIIâ€.

During the pendency of the present petition, petitioner has placed on record copy of the order dated 29.10.2018 passed by the Joint Commissioner,

dismissing the appeal only on account of pendency of the present petition.

Learned counsel for the petitioner states that the entire component of pre-deposit tax already stood deposited before the appellate authority, as such

the authority was duty bound to hear the appeal on merits.

We are in agreement with the submission made by learned counsel for the petitioner.

If the component pertaining to the pre-deposit tax stood deposited then the appeal ought to have been heard on merits, or at best, adjourned in view of

the pendency of the present petition but not dismissed otherwise, particularly, when this Court had not stayed the proceedings initiated by the

petitioner.

As such, we quash and set aside the order dated 23.02.2018 passed by Deputy Commissioner of Commercial Taxes (Appeal) in case No. IR No.

134/16-17, titled as M/s S V S V S Projects Pvt. Ltd., with the following direction(s):-

(a) Petitioner shall appear before the said authority on 21st of December, 2020, when a date shall be fixed for further appearance of the petitioner,

enabling him to place on record the material indicating compliance of the statutory provisions of the pre-deposit of the amount in terms of the Statute;

(b) Upon such compliance, the authority shall hear the appeal on merits and pass a fresh order;

(c) The parties also undertake to fully co-operate in the matter and not take any unnecessary adjournment;

(d) Since the proceedings pertains to the year 2014-15, we direct the authority to positively decide the appeal on merits within a period of two months

from the date of first appearance;

(e) The proceedings, during the time of current Pandemic- Covid-19, shall be conducted through digital mode, unless the parties otherwise mutually

agree to meet in person i.e. physical mode;

(f) Order assigning reasons be supplied. Liberty reserved to agitate the same, if so required.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.