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(2020) 12 PAT CK 0197

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 9129, 9137 Of 2020 & Civil Writ Jurisdiction Case No. 9150, 9160, 9181, 9200, 9225, 9229, 9261, 9333, 9323, 9232, 9139, 9149, 9143 Of 2020

Hav Automobiles Pvt. Ltd — APPELLANT

Vs

State Of Bihar And Anr — RESPONDENT

Date of Decision : 21-12-2020

Acts Referred:

Bihar Goods And Services Tax Act 2017 — Section 39(7), 50, 50(2), 75(12)

Citation : (2020) 12 PAT CK 0197

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

Bench : Division Bench

Advocate : Gautam Kumar Kejriwal, Vikash Kumar

Final Decision : Disposed Of

Judgement

The petitioner has prayed for following relief(s):

â??1(a) For issuance of writ or order in the nature of certiorari for quashing of the order number 19319 dated 25.02.2020 passed by the respondent

number 2 under section 75(12) read with section 50(2) of the Bihar Goods And Services Tax Act, 2017 (hereinafter referred to as the act for short),

and the consequential demand notice/summary of order issued in form GST DRC- 07 dated 29.02.2020 being ex-parte and as such violative of the

principles of natural justice;

(b) For holding and a declaration that the impugned order number 19319 dated 25.02.2020 and the consequential demand notice is wholly without

jurisdiction and is unsustainable in the eye of law;

(c) For further holding and a declaration that in absence of the jurisdictional fact necessary for exercise of power under section 50 read with section

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75(12) of the act the respondent assessing authority could not have passed the impugned order and the consequential demand notice which is

accordingly without jurisdiction and liable to be quashed by this Honâ??ble Court;

(d) For further holding and a declaration that the case of the petitioner is squarely covered by the judgment dated 06.01.2020 of Honâ??ble Madras

High Court in the matter of Refex Industries Limited Vs. Asst. Commissioner of CGST and Central Excise wherein it has been held that the liability

of interest under section 50 of the act would be attracted only in case of the tax liability discharged from out of the cash ledger;

(e) For further holding and a declaration that no liability of interest would be attracted in the case of the petitioner when the credit balance existing in

the electronic credit ledger of the petitioner is quite surplus to meet the tax liabilities admitted by the petitioner in the returns filed for the respective

months;

(f) For further holding and a declaration that in case the petitioner has already furnished the return and made payment of tax liabilities in terms of

section 39(7) of the act no liability of interest would be attracted in terms of section 75(12) of the act;

(g) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.â??

Shri Vikash Kumar, learned Standing Counsel No. 11 has electronically transmitted certain documents to Shri Gautam Kumar Kejriwal, learned

counsel for the petitioner.

In view of the same, learned counsel for the petitioner, under instructions, seeks permission to withdraw the present petition reserving liberty to file a

fresh petition on the same and subsequent cause of action.

Liberty granted.

The present petition stands disposed of as withdrawn with the liberty aforesaid. Liberty also granted to the petitioner to mention the matter for early

listing.

Interlocutory Application(s), if any, shall sand disposed of.

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