(2021) 01 PAT CK 0122

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4213 Of 2020

M/S Ic Automobiles Pvt. Ltd — APPELLANT

Vs

State Of Bihar And Ors — RESPONDENT

Date of Decision : 11-01-2021

Acts Referred:
Bihar Goods And Services Tax Act, 2017 — Section 50, 73(9), 80

Citation : (2021) 01 PAT CK 0122

Hon'ble Judges : Sanjay Karol, CJ;Partha Sarthy, J

Bench : Division Bench

Advocate : Gautam Kumar Kejriwal, Vikash Kumar

Final Decision : Disposed Of

Judgement

Let the name of learned counsel for the petitioner be read as â??Mr. Gautam Kumar Kejriwalâ? in place of â??Mr. Arvind Kumar Kejriwalâ?.

Accordingly, order dated 18.12.2020 stands modified to that extent only.

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

â??a) For issuance of a writ or order or direction upon the order direction upon or in respondents to accept assessed amount of demand in amount of

demand installments in terms of section 80 of The Bihar Goods And Services Tax Act, 2017 (hereinafter referred to as the Act 2017 for short);

b) For issuance of a direction upon the respondents to immediately revoke/ withdraw the order of attachment of bank account of the petitioner upon

receipt of the first installment as may be fixed by this Hon'ble Court;

c) For issuance of a writ or order or direction in the nature of certiorari for quashing of the order of assessment dated 29.12.2018 passed by the

respondent assessing authority under section 73 (9) read with section 50 of the act 2017 along with other statutes with respect to the tax period of July

2017 to March 2018 and April 2018 to August 2018 and the consequential demand notice with respect to the said orders being contrary to the

provisions of law as well as the notifications issued under the provisions of the act 2017;

d) For holding and a declaration that the order of attachment of bank account of the petitioner issued by the respondent assessing authority on

08.02.2020 is thoroughly illegal, illegal, arbitrary and violative of the principles of natural justice as the petitioner was never issued any prior notice

about such coercive and extreme action being taken for the purpose of recovery of such assessed demand;

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

In view of the stand taken by the State vide its affidavit dated 09.01.2021 affirmed by Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner,

we close the present proceedings taking on record the averments made by the deponent, part of which are reproduced as under:

â??10. That post issuance of Notification-no-63/2020 dated 25th August 2020 by the central government a press release was issued by Ministry of

Finance, Govt of India on 26.08.2020 wherein it was clarified that amendment in section 50(1) has been made effective prospectively wef 01-09-2020

due to certain technical limitations, however for present no recoveries for interest charged on gross liability will be recovered for the past period as

well by the central and state tax administration.

11. That in the light of aforesaid submissions, it is stated that no recovery will be made for interest charged on delayed payment of tax which has been

made by the taxpayer debiting the credit ledger.

12. That however, in terms of amended section â?" 50 (1), it is prayed before the Honâ??ble court that the taxpayer may be directed to pay the

interest on delayed payment of tax which has been made by debiting the cash ledger that is on net liability.â??

Additionally, our attention is invited to the circular issued by the Central Board of Indirect Taxes & Customs (CBIC), which reads as under:-

â??Interest on delayed payment of GST:CBIC Posted on 26th August 2020 5:34 PM by PIB Delhi Central Board of Indirect Taxes & Customs

(CBIC) today clarified that the Notification No. 63/2020-Central Tax dated 25th August 2020 relating to interest on delayed payment of GST has been

issued prospectively due to certain technical limitations. However, it has assured that no recoveries shall be made for the past period as well by the

Central and State tax administration in accordance with the decision taken in the 39th Meeting of GST Council. This will ensure full relief to the

taxpayers as decided by the GST Council.

CBIC explanation came in response to an assortment of comments in the social media with respect to notification dated 25th August 2020 regarding

charging of interest on delayed payment of GST on net liability (the tax liability discharged in cash) w.e.f. 1st September 2020.â??

As such, the petition is disposed of in the aforesaid terms.

