(2014) 12 JH CK 0069

In the Jharkhand High Court

Case No : W.P. (T) No. 6400 of 2014

Tata Steel Limited — APPELLANT

Vs

State of Jharkhand and Others — RESPONDENT

Date of Decision : 22-12-2014

Acts Referred:
Jharkhand Value Added Tax Act, 2005 — Section 43, 46

Citation : (2015) 1 AJR 729

Hon'ble Judges : Ravi Nath Verma, J;Rakesh Ranjan Prasad, J

Bench : Division Bench

Advocate : S.K. Kapoor, Sr. Advocate and Sumeet Gadodia, Advocates for the Appellant; Ajit Kumar, A.A.G, Advocates for the Respondent

Judgement

1. Mr. Kapoor, learned Senior Counsel appearing for the petitioner submits that the returns were filed by the petitioner with respect to input tax credit before the assessing authority for the months of January to April, 2014. It was scrutinized and an amount was assessed to be paid by the petitioner without giving the petitioner an opportunity of being heard. That order was challenged before the revisional authority. The revisional authority having found the scrutiny order being bad, set aside it and remanded the matter back for passing a fresh order after giving the petitioner an opportunity of being heard. The said matter on account of being not taken up for hearing is still pending. Meanwhile, when the returns were filed for the months of May, June and July, 2014, the assessing officer passed scrutiny order in the same manner as had been passed earlier without giving opportunity to the petitioner of being heard, though earlier order which had also been passed without giving opportunity to the petitioner had been quashed. In that event, an application was filed before the assessing authority for recalling its order relating to scrutiny of the returns for the months of May to July, 2014, wherein prayer was also made to stay the operation of the said order, but when no order was passed, the petitioner preferred revision application before revisional authority. Even an application for stay of the order was filed. While the matter was pending adjudication, demand notices were issued.

Subsequently, bank account was first attached and then a sum of rupees over two crores were recovered. That necessitated filing of this writ petition wherein question has been raised as to whether the authority is empowered to resort to the provisions of section 46 of the Jharkhand Value Added Tax Act, 2005, without resorting to the provision of Section 43 of the said Act dealing with the normal procedure for recovery of the amount due to be paid to the State Government, whereas section 46 relates to special mode of recovery, which the authority cannot be permitted to be resorted to in absence of any steps being taken for recovery of the amount under section 43 of the said Act.

2. However, Mr. Ajit Kumar, learned Addl. Advocate General, Jharkhand, submits that by 12th January, 2015, he would be filing his response and hence matter be posted on 20th January, 2015, so that the matter be heard on that date. Put up this case on 20-01-2015.

