

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3929 of 2022

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MRF Limited a company incorporated under the Companies Act, 1956 having its registered office at 2nd Floor, Emarat AI Harmain, Bank Road, Patna through its authorized signatory Thomson A Perumadan (aged about 39 years) Son of P T Antony resident of Perumadan House, Near GHS Thanniam, Thrissur, Peringottukara, Kerela 680565 at present residing at Flat No. 103, Sharda Sadan, Road No. 3, New Patliputra Colony, Patna - 800013.

... .. Petitioner/s

Versus

1. State of Bihar through Commissioner of State Tax, Bihar, Patna having its office at Vikas Bhawan, Patna.
2. Asst. Commissioner of State Tax, Patliputra, Central, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.D.V.Pathy, Advocate
For the Respondent/s : Mr.Vivek Prasad, GP-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/Hon'ble Judges through Video Conferencing from their residential offices/residences. Also the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

Date : 11-03-2022

Petitioner has prayed for the following relief(s):

“i) the show cause notice dated 15.02.2021 (as contained in Annexure -1 series) proposing to disallow input tax credit on the ground of wrong utilization of input tax credit under Section 16(4) of the BGST Act and Rule 36 (4) of the BGST Rules for the Period April 2019 to September 2019 even prior to the



coming into force of the said Rules be quashed.

ii) the order dated 24.02.2021 (as contained in Annexure -3 series) passed by the respondent no. 2 disallowing the claim of input tax credit for the Period April 2019 to March 2020 only on the ground of non-filing of the annual return despite filing the same online on 23.02.2021 containing necessary data in relation to claim of input tax credit be quashed.

iii) the order dated 24.02.2021 (as contained in Annexure -3 series) passed by the respondent no. 2 for the Period April 2019 to March 2020 on a seven-day notice without affording an adequate opportunity of being heard be quashed.

iv) the respondent no. 2 be directed to rectify the order dated 24.02.2021 (as contained in Annexure -3 series) under Section 161 of the BGST Act to correct the prima facie mistakes apparent on the face record.

v) the notice of demand dated 24.02.2021 issued by the respondent no. 2 in Form GST DRC – 07 (as contained in Annexure -3 series) be quashed.

vi) the notice of demand dated 26.02.202 issued by the respondent no. 2 (as contained in Annexure -4) attaching the bank account of the petitioner maintained with HDFC bank Ltd, Patna for recovery of the whole of the amount of tax in dispute be quashed.

vii) for granting any other relief (s) to which the petitioner is otherwise found entitled



to.”

Shri D.V. Pathy, learned counsel for the petitioner, invites our attention to the returns filed under the provisions of the G.S.T. Act.

We notice that, perhaps, this fact was not taken into notice or escaped the attention of the officer passing the impugned order. As such, we are left with two options, i.e. either to ask the respondent to file response or quash the order asking the officer to pass a fresh order.

Considering the fact that the petitioner’s bank account stands attached, as a consequence of non-payment of the dues arising out of the impugned order, we are inclined to adopt the latter course and, as such, quash the impugned order dated 24th of February, 2021, as also the consequential demand notice, (Annexure-3 series, page-30). We also quash the order of attachment dated 26th of February, 2022 (page-34) of the bank-account.

Petition is disposed of on the following mutually agreeable terms:

(1) The petitioner shall deposit a sum of Rs.10,00,000/- with the Assessing Officer within a period of next two working days;



(2) The Assessing Officer shall pass a fresh order accounting for the entire facts on record by the assessee, including the returns filed by him;

(3) If, after adjudication, any amount is found to be in excess, the same shall be adjusted towards dues payable by the petitioner for the subsequent period. Such order shall be passed within four weeks from today;

Petition is disposed of in the aforesaid terms.

Shri Vivek Prasad, learned G.P. 7, undertakes to communicate the order telephonically and in writing during the course of the day.

We are sure that, on the basis of such communication, the bank-account of the petitioner would be made operational.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-DKS

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