IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18017 of 2015

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H P C L Biofuels Ltd.

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. D.V.Pathy
For the Respondent/s : Mr. Vikash Kumar, A.C. to PAAG

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER
(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

2 26-11-2015 Heard learned counsel for the petitioner and learned counsel for the State.

It is not in dispute that the petitioner had invoked the statutory remedy against the impugned order dated 31.10.2013 passed by the Assessing Officer under Section 33 of the Bihar Value Added Tax Act, 2005 and further the order dated 28.03.2014 passed by respondent No.2 in Appeal Case No.ST-SL/189/2013-14.

It is also admitted that an appeal was filed before the Tribunal against the impugned order dated 28.03.2014, which is pending.

In the above circumstances, it would not be appropriate for this Court to consider the present matter.

Learned counsel for the petitioner submits that a justifiable claim in the face of approximately Rs.7.5 crores input tax credit is lying with the respondents and the demand in question although purporting to be of Rs.6.98,44,011/- but evidently the same could not have been raised merely because the input credit tax claimed by the petitioner has been rejected. The tax liability even as claimed by the Department would be only to the extent of Rs.87,385/- which has already been paid in cash and the appeal filed by the petitioner has been rejected on the sole ground of non-payment of the statutory amount. However, the petitioner is still saddled with the huge amount of liability which, evidently, is not in any case payable by the petitioner and totally unjustified demand has been raised by the respondents.

Having noted the aforesaid submissions and considered the fact that the appeal is pending before the Tribunal, we consider it appropriate that the petitioner should raise the said issue before the Tribunal at the first instance.

The writ application is, accordingly, disposed of with liberty to the petitioner to raise all its pleas before the Tribunal.

V.P.Sinha/-

(Ramesh Kumar Datta, J)

(Sudhir Singh, J)

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