IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.89 of 2011

==

M/S Speedcraft Ltd., a Company incorporated under the provisions of the Companies Act, having its registered office at Layak Bhawan, Boring Canal Road, Patna-800001, through its Director (Works), S.S. Khadria, son of late P.R.Khadria, resident of Layak Bhawan, East Boring Canal Road, P.S.-Buddha Colony, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Patna.
3. The Engineer In Chief Cum Additional Commissioner-Cum- Special Secretary, Road Construction Department, Government Of Bihar, Vishweshwaraiya Bhawan, Patna.
4. The Director (Purchase & Transport), Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Patna.
5. The Chief Engineer (Mechanical), Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Patna.

.... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Suraj Samdarshi
For the Respondent/s : Mr. S.R.Sharan

==

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

3 01-05-2015 Heard the parties.

The matter at issue is the claim of the petitioner for payment of differential amount on account of increase of sales tax and excise duty for supply of eight road rollers made in the year 1999-2000.

Learned counsel appearing on behalf of the petitioner submits that the claim raised on behalf of the petitioner for payment of additional/differential amount for supply of 8 diesel road rollers on account of increase of sales tax and excise duty was admitted by the authorities, yet the payments are not being made despite several representations filed on behalf of the petitioner and despite some orders passed by some of the authorities of the respondent State.

The matter has been contested by the respondents. According to them, the writ petition is liable to be dismissed on the ground of delay and laches. Secondly, it is pointed out that in view of the judicial pronouncement made by a Division Bench of this Court, the claim raised on behalf of the petitioner is not maintainable and is fit to be rejected.

There is no dispute that the supply order was issued to the petitioner in the year 1999 for supply of road rollers. This is also not under dispute that the eight road rollers were supplied by the petitioner to the Road Construction Department of the State Government in the year 2000. The only dispute is with regard to payment of additional/differential amount on account of enhancement of sales tax and excise duty. The supply of road rollers was made in the year 2000, which gave rise to the cause of action for the petitioner for claiming payment of differential amount, but the present writ petition was filed on 03.01.2011 i.e. after delay of more than 10 years. Furthermore, this Court finds that the identical issues came up for consideration in LPA No.505 of 2008 before a Division Bench of this Court, which was filed by the State of Bihar and its functionaries against the order passed by the Writ Court allowing the claim of the supplier and a direction was issued for payment of differential amount on account of enhancement of sales tax and excise duty. The Division Bench of this Court by a judgment and order dated 04.09.2009 passed in the aforesaid LPA No.505 of 2009 (Annexure-E to the counter affidavit) reversed the order passed by the Writ Court and rejected the claim of the supplier for payment of differential amount on account of enhancement of sales tax and excise duty. Hence, the issues raised herein by the petitioner are squarely covered by the aforesaid judgment of the Division Bench of our own High Court. Apart from that, as indicated above, the present writ petition suffers from delay and laches.

For the reasons recorded above, this Court is not inclined to accede to the prayer made on behalf of the petitioner in the present writ petition. Consequently, the writ petition is dismissed. However, there shall be no order as to costs.

(Birendra Prasad Verma, J)

Arvind/-

U			