IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5466 of 2016

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M/s National Trading Corporation, a Partnership Firm, having its place of business at 4, Fairlie Place, HMP House, Room No. 31, Mezzanine Floor, Kolkata-700001, through its Partner, Pawan Kumar Agarwal , Son of Lat Ram Kumar Agarwal, resident of 5, Sailo Mukherjee Road, District Howrah, West Bengal.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Commercial Taxes Department, Government of Bihar, through the Commissioner of Commercial Taxes, Bihar, Patna.
3. The Deputy Commissioner of Commercial Taxes, Central Circle, Patna.
4. Bihar Rajya Beej Nigam Limited, 6th Floor, Pant Bhawan, Jawahar Lal Nehru Marg, Patna through its Managing Director.
5. The Chief of Processing, Bihar Rajya Beej Nigam Limited, 6th Floor, Pant Bhawan, Jawahar Lal Nehru Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Suraj Samdarshi
For the Bihar Beej Nigam: Mr. Sourendra Pandey
Mr. Nalin Vilochan Tiwary
For the State : Mr. Anil Kumar Sinha, G.A.9

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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)

4 06-05-2016 Heard learned counsel for the petitioner and learned counsels for the State and for the Bihar Rajya Beej Nigam.

The petitioner has come up to this Court seeking refund of the amount of tax wrongly deducted from the bills of the petitioner contrary to the provisions of Section 40 of the Bihar Value Added Tax Act, 2005.

In the counter affidavit filed on behalf of the respondent

Bihar Rajya Beej Nigam, it is admitted that the deduction made from the bills of the petitioner @ 5% under the head of VAT/Way Bill/Road Permit was under misinterpretation of the provisions of law relating to the Bihar Value Added Tax Act, 2005 and after realizing such mistake, the Beej Nigam has initiated the process for refund of the same from the Commercial Taxes Department.

Learned Government Advocate No.9 appearing for the State also submits that the said amount ought not to have been deducted from the bills of the petitioner and upon the details already supplied to the Department by the Bihar Rajya Beej Nigam, steps are under way to refund the same to the Beej Nigam, which shall be done within a period of fifteen days from today.

In view of the aforesaid stand taken by the respondents, the writ application is allowed in terms of the submissions made by the respondents and it is directed that on receipt of the refund within the aforesaid period by the Bihar Beej Nigam, the said respondent shall, in turn, refund the amount to the petitioner forthwith.

(Ramesh Kumar Datta, J)

V.P.Sinha/-

(Sudhir Singh, J)

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