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IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7798 of 2015

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1. M/s HPCL Biofuels Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its office at House No. 271, New Patliputra Colony, P.S.- Patliputra, Town & District - Patna, through its Chief Finance Officer, R. Shankaran. Son of Late C.S. Ramanathan. Resident of 73, Patliputra Colony, P.S.- Patliputra, Town & District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary-cum-Commissioner of Commercial Taxes, Government of Bihar, Vikas Bhawan, Bailey Road, Patna.
2. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
3. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.7823 of 2015

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1. M/s HPCL Biofuels Limited, a Company incorporated under the provisions of the Companies Act, 1956, having its Office at House No. 271, New Patliputra Colony, P.S.- Patliputra, Town & District - Patna, through its Chief Finance Officer, R. Shankaran. Son of Late C.S. Ramanathan. Resident of 73, Patliputra Colony, P.S.- Patliputra, Town & District - Patna.

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Versus

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2. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
3. The Assistant Commissioner of Commercial Taxes, Special Circle, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.7798 of 2015)

For the Petitioner/s : Mr. D.V.Pathy
Mrs. Manju Jha

For the State : Mr. Vikash Kumar, AC 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)

10 30-01-2016 Heard learned counsel for the petitioner and learned counsel for the State.

The main issue raised by learned counsel for the petitioner is that imposition of liability for reduction of the input tax credit taken by the petitioner giving go-by to the Act is only three times the tax which would have been leviable; whereas in the present matter the tax has been levied on the input tax credit which had been taken on the transactions but carried forward with only a nominal adjustment.

Mr. Vikash Kumar, learned counsel for the State upon taking instructions, submits that the respondents have no objection if the matter is remitted for a fresh order to be passed in accordance with law.

Both the writ applications are accordingly allowed. The demand notice and the impugned order both are quashed and the matter is remitted to the Respondent No. 3 to pass fresh orders in accordance with law.

(Ramesh Kumar Datta, J)

S.Pandey/-

(Sudhir Singh, J)

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