IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18806 of 2016

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Future Value Retail Ltd., a Company incorporated under the Companies Act, 1956, having its registered office at P & M Mall, Patliputra Kurji, P.O.+P.S. Patliputra, District –Patna through its Dy. Manager, Shri Kali Kant Mishra, Son of Late Tara Kant Mishra, resident of 89/252/253, Bangur Park, Bangur 12th Lane, P.O.+P.S. Rishna, District Hooghly (West Bengal).

.... Petitioner

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna having its office at Vikas Bhawan, Bailey Road, Patna
2. Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna
3. Asstt. Commissioner of Commercial Taxes, Special Circle, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. D.V.Pathy, Advocate
Mrs. Manju Jha, Advocate
Mr. Raghwendra Kumar, Advocate

For the Respondent/s : Mr. Lalit Kishore(PAAG-1)
Mr. Vikash Kumar, S.C.
Mr. Manish Dhari Singh, AC to PAAG-1

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)
Date: 23-12-2016

Heard learned counsel for the parties.

2. The challenge in the present writ application is to an order dated 18th of October, 2016 passed by the learned Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna whereby, the petitioner has been directed to pay 40% of the tax demand of Rs.95,74,394/- assessed by the Assessing Officer.

3. Section 72 of the Bihar Value Added Tax Act, 2005, provides that an appeal shall not be admitted for hearing unless the petitioner deposits 20% of the tax admitted to be due or the tax determined whichever is higher. The petitioner has deposited

the said amount, but while seeking stay of the demand raised by the assessing officer, the petitioner has been directed to pay 40% of the disputed tax amount which includes 20% of the amount already deposited by the petitioner.

4. We do not find any error in the jurisdiction exercised by the Joint Commissioner of Commercial Taxes (Appeal). The appellate authority has stayed 60% of the recovery of the tax amount to strike balance between the interest of the State and the dealer. We do not find any error which may warrant interference the present writ application. The same is disposed of.

5. The petitioner seeks another four weeks' time to deposit the tax amount in terms of the order passed by the Joint Commissioner of Commercial Taxes (Appeal), Central Division, Patna. The petitioner will deposit 40% of the disputed amount assessed by the assessing authority on or before 31st of January, 2017.

(Hemant Gupta, ACJ)

(Dinesh Kumar Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.01.2017
Transmission Date	N/A