IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.323 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 3297 of 2016

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1. The State of Bihar through the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Government of Bihar, Patna
2. The Commissioner-cum-Principal Secretary, Commercial Taxes Department, Government of Bihar, Patna.
3. The Additional Commissioner, Commercial Taxes Department, Government of Bihar, Patna.
4. The Joint Commissioner (Administration) Commercial Taxes Department, Magadh Division, Gaya
5. The Joint Commissioner (Appeal) Commercial Taxes Department, Magadh Division, Gaya
6. The Deputy Commissioner Commercial Taxes Department, Magadh Division, Gaya
7. The Commercial Taxes Officer, Investigation Bureau Commercial Taxes Department, Magadh Division, Gaya

.... Petitioner/s

Versus

Mahaveera Transport Pvt. Ltd. A company incorporated under Indian Companies Act, 1956, having its Head Office at C1/14 2nd Floor, Prashant Vihar Behind Ambica Society, Rohini, New Delhi- 85, through its Authorised Manager, Madan Singh, son of Sri Ram Sevak Singh, Resident of E-650, Agar Nagar, Prem Nagar, 3rd, Delhi-86

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Vikash Kumar, Advocate
For the Respondent/s : Mr. Raj Kishore Prasad, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 05-07-2017

On 16.03.2016 C.W.J.C. No. 3297 of 2016 was disposed of by a Bench of this Court in the following manner:-

> “Heard learned counsel for the petitioner and the State.
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> 2. The grievance of the petitioner is that the amount of penalty to the tune of Rs. 12,58,620/- is not

being refunded, though the order imposing such penalty has been quashed in revision.

3. In a counter affidavit filed on behalf of the respondents, it is pointed out that the question of refund does not arise as petitioner has not filed any application to seek refund in prescribed Form A-VIII as per Rule 43(2) of the VAT Rules, 2005. Learned counsel for the respondents states that once an application is filed for refund, the same shall be processed within the time fixed under the Rules.

5. In view of the said fact, the present writ application is disposed of with liberty to the petitioner to apply for refund in the prescribed form to enable the State to process the refund. The State shall make the necessary refund within the period fixed under the Act and the Rules framed there-under."

It is stated in this Review Application that while passing the aforesaid order, this Court was not apprised of the fact that at the instance of the State Government an appeal filed was pending before the Commercial Taxes Tribunal and pending finalization of the appeal the direction for refund was not called for.

Taking note of the aforesaid, we modify the order passed on 16.03.2016, grant liberty to the original petitioner in the said writ petition to file an appropriate application before the Tribunal to seek refund of the amount and the Tribunal shall pass an order within a period of 30 days of its presentation and decide the question of refund pending finalization of the appeal filed by the State Government and in case petitioner has any grievance with the manner in which the Tribunal decides the application, liberty shall be available to the petitioner to approach this Court again.

With the aforesaid modification to the order passed, the application stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	06.07.2017
Transmission Date	