IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1008 of 2017

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1. M/s Rajendra Singh & Brothers, TIV VAT No - 1034250065, H.O. - Badrinarayan Bhavan, Ratu Road, Ranchi, (Jharkhand) At + P.O. - Vill. - Sonar, Post - Pokharbhinda, P.S. - Riga, Dist - Sitamarhi through its Managing Partner, Sri Uday Pratap S/o Lt. Rajendra Singh.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, New Secretariat, Patna.
2. The Commissioner of Finance, Govt. of Bihar, Patna.
3. The Deputy Commissioner of Commercial Taxes, Sitamarhi Circle, Sitamarhi.
4. The Joint Commissioner of Commercial Taxes (Administration), Tirhut & Saran Division, Muzaffarpur.
5. The District Treasury Officer, District Collectorate, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Usha Kumari, Advocate
Mr. S.B. Singh, Advocate

For the Respondent/s : Mr. Pawan Kumar, AC to GA-1

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 16-05-2017

Inter alia claiming refund of tax paid for the financial year 2006-07 up to 2010-11 along with interest as contemplated under the Bihar Value Added Tax Act, 2005, this writ petition has been filed.

From the counter affidavit filed by the respondents and on going through the documents, Annexure A series, filed by the respondents, we find that the Deputy Commissioner, Commercial Taxes, Sitamarhi Circle, Sitamarhi, by order dated 11.4.2017 has decided the case for refund and passed orders of refund of the amount in question.

That being so, part of the claim prayed for by the petitioner with regard to the refund of the amount in question stands remedied. The amount be refunded to the petitioner, if not already done, within a period of one month from today.

However, the petitioner claims interest on the delayed release of the refund amount and it is the case of the petitioner that he had sought refund of the amount vide Annexure-4 on 15^{th} of July, 2015 and on 30^{th} of July, 2015 the Deputy Commissioner had forwarded the matter to the competent authority for adjudication. Respondents refuted the aforesaid contention. Respondents, however, deny receipt of Annexure-4/A and point out that the application for refund i.e. Annexure-4/A was only, submitted on 8.12.2016 and within a period of four months the same has been decided and, therefore, the petitioner is not entitled to any further interest on the amount in question.

Having heard learned counsel for the parties, we are of the considered view that there is serious dispute with regard to the date on which claim for refund was made and under Section 70 of the Bihar Value Added Tax Act, 2005. If there is any dispute with regard to payment of interest for delay in making the refund and any dispute connected thereto, then an application under Section 70(3) is to be filed before the Commissioner for determination of the liability whose decision is said to be final under the Statute.

In view of the dispute in question with regard to payment of interest, we grant liberty to the petitioner to raise a claim in this regard before the Commissioner.

On the petitioner filing an application under Section 70(3) of the Bihar Value Added Tax Act, 2005 in accordance with law within a period of 30 days from today, the Commissioner shall decide the question of payment of interest on the delayed amount of refund within 45 days thereof.

With the aforesaid liberty to the petitioner, this petition is disposed of.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.5.2017
Transmission Date	N/A