IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12121 of 2017

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M/s Supreme Enterprises, a Company having its Registered Office at East Ashok Nagar, Road No. 14(B), Kankarbagh, Patna, Bihar through its Authorized Representative and General Manager Mr. Rahul Kumar.

.... Petitioner/s

Versus

1. The State of Bihar, through its Principal Secretary, Urban Development and Housing Department, New Secretariat, Patna.
2. District Magistrate, Siwan.
3. Chief Executive Officer, Nagar Parishad, Siwan.
4. Chairperson, Nagar Parishad, Siwan.
5. Deputy Chairperson, Nagar Parishad, Siwan.
6. Commissioner Commercial Taxes, New Secretariat, Patna.
7. Deputy Commissioner, Commercial Taxes, South Circle, Patna.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Anurag Saurav, Adv
For the Respondent/s : Mr. VIKASH KUMAR-SC11

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 11-07-2018

The present writ petition has been filed for the following reliefs—

(i) *For issuance of writ in the nature of mandamus directing the respondent authorities specially Respondent No. 4 and 5 to refund an amount of Rs. 5,88,627/- along with interest and penalty, as deducted by respondent authorities in the name of work contract tax @ 13.5% from the gross bill amount of the petitioner in lieu of supply made by the petitioner and the above mentioned deduction was made as work contract tax against Form C-II, under Section 40 of the Bihar Value Added Tax Act, 2005, but*

till date neither the respondent authorities deposited the tax amount tot eh Sales Tax Department nor issued Form C-II against the deduction made as per provisions of Section 40 of Bihar VAT Act, 2005 due to which Sale Tax Authorities already imposed tax and recovered from the petitioner and due to non-deposit of tax amount by respondent nos. 4 and 5 petitioner had to bear additional tax liability.

(ii) *For issuance of writ in the nature of mandamus directing the respondent authorities for providing C-II certificate in lieu of deduction made by Respondent No. 4 and 5 from the gross bill amount of the petitioner for financial year 2013-14 as per provisions of Section 40 of the Bihar VAT Act, 2005.*

(iii) *For issuance of writ in the nature of mandamus directing the Respondent nos. 6 and 7 to accept C-II certificates issued by Respondent nos. 4 and 5 or impose penalty as provided under Section 40(5) of the Bihar VAT Act, 2005 to the respondent nos. 4 and 5 for not depositing the deducted tax amount from the petitioner.*

(iv) *For issuance of writ in the nature of mandamus directing the respondent authorities either to refund an amount of Rs. 43,602/- as deducted by respondent nos. 4 and 5 as Income Tax (TDS) @ 1% from the gross bill amount of the petitioner but the same was not deposited before the Income Tax Authority and tax was imposed to the petitioner due to non-deposit of tax amount by the respondent authorities in spite of making deduction from the bill of the petitioner.*

(v) *For issuance of any other appropriate writ order or direction as your Lordship may deem fit and proper in*

the facts and circumstances of the case.

2. At the very outset, this Court takes note that the petitioner has already represented before the concerned authority by its letter dated 13.02.2017 (Annexure-8) but, however, no response thereto said to have been received by the petitioner.

3. In the above view of the matter, the present writ petition is disposed of with a direction to the Chief Executive Officer, Nagar Parishad, Siwan (Respondent No. 3) to consider and dispose of the petitioner's representation dated 13.02.2017 (Annexure-8), if not already disposed of, after grant of opportunity of hearing to the petitioner in accordance with law expeditiously and in any event within a period of four weeks from the date of receipt/production of a copy of this judgment.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2018
Transmission Date	NA