IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11118 of 2019

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Rakesh Kumar, S/o Late Dr. Mahadeo Mandal, R/o C-303, Laxmi Kant Niketan, Jamal Road, P.S.-Gandhi Maidan, District-Patna-1

... ... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Transport, Govt. of Bihar, Vishweshraiya Bhawan, Bailey Road, Patna.
3. The District Transport Officer, Biscomaun Bhawan, Gandhi Maidan, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Sunil Kumar alias Sharma, Adv.
For the Respondent/s : Mr. Anshuman Singh, AC to AG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

2 25-06-2019 Heard Mr. Sunil Kumar, learned counsel appearing for the petitioner and Mr. Anshuman Singh, learned Assisting counsel to Advocate General for the State.

In the nature of the order that we propose to pass we do not deem it necessary to delve deep into the merit of the case.

The grievance of the petitioner briefly stated is that the one time tax realised from the petitioner is in excess of the amount, which the petitioner is liable to pay in terms of the provisions present in the Bihar Motor Vehicles Taxation (Amendment) Rules, 2018 (hereinafter referred to as the 'Amendment Rules') more particularly the provisions present at paragraph- a(iv) of the ‘Amendment Rules’ which inter alia allows the department to tax a new four-wheeler vehicle whose sale price exceeds Rs.15,00,000/- @ 12% of the Ex-Showroom price.

According to Mr. Kumar, learned counsel appearing for the petitioner, a plain look at the sale invoice issued by the dealer would clearly confirm the Ex-showroom price of the vehicle, to the tune of Rs.22,64,296/-. He submits that the tax in terms of the ‘Amendment Rules’ calculated at the rate of 12% of the Ex-showroom price, would make the petitioner liable for taxation for the amount of Rs.2,69,015/- but the illegality in the action of the respondents is that in the process of calculation of tax the respondent no.3 has also included the discount allowed by the dealer to the tune of Rs.3,80,826/- to treat the sale price at Rs.26,45,122/- and proceeding thereon that the tax had been calculated incorrectly to the tune of Rs.3,67,402/- which has also been realised from the petitioner.

According to learned counsel appearing for the petitioner, the petitioner is entitled to refund of Rs.3,67,402-2,69,015/- i.e. Rs.98,387/-.

Though learned counsel for the petitioner relies upon some representations present at Annexures 3 and 4 which are addressed to the Principal Secretary, Transport Department as well as the District Transport Officer, Patna but they fall short on the details which we have taken note of hereinabove.

In the circumstances that we have discussed above we would direct the District Transport Officer, Patna, Biscomaun Bhawan, Gandhi Maidan, Patna to consider the grievance of the petitioner as taken note of hereinabove and dispose of the same in accordance with law within a period of three months of receipt/production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

(Partha Sarthy, J)

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