# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No.10832 of 2018**

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M/s Gausul Aajam & Sons, a proprietorship firm through its Proprietor Shakil Ahmad son of Md. Yusuf, resident of S-11/6-A-B-1, Chauka Ghat, P.S. Jaitpura, Town and District- Varanasi Uttar Pradesh.

... ... Petitioner/s

Versus

1. The Union Of India, Ministry of Railway, through its Secretary, Rail Bhavan, New Delhi.
2. The General Manager, East Central Railway, Hajipur Vaishali.
3. The Controller of Stores, East Central Railway, Hajipur Vaishali.
4. The Chief Material Manager Sales, East Central Railway, Hajipur Vaishali.
5. The Deputy Chief Material Manager Depot East Central Railway, Samastipur.
6. The State of Bihar through the Commissioner of Commercial Taxes, Bihar, Patna.
7. The Deputy Commissioner of Commercial Taxes, Samastipur Circle, Samastipur.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Ms. Parul Prasad, Adv & Ms. Priya Gupta, Adv |
| For the State | : | Mr. Vikash Kumar SC-11 |
| For the Railways | : | Mr. Kalyan Shankar, Adv |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE S. KUMAR**

ORAL ORDER

**(Per: HONOURABLE THE CHIEF JUSTICE)**

5 06-03-2020 Petitioner has prayed for following reliefs:-

> "i) For a direction to the Respondents to accept the physical copy of declaration in Form- C for inter state sale transaction and not as a local sale in Bihar, in view of the nature of sale;
>
> ii) For direction to the respondents to refund the excess amount of Central Sales Tax to the tune of Rs. 4,71,747.14p. along with interest @ 18% p.a. realized from the petitioner as the transaction was duly supported by physical copy of the Form-C and to abide by the law laid down by this Hon'ble Court in C.W.J.C. No. 3911 of 2014 (M/s Rafai Scrap Udyog

V/S Union of India dated 16.01.2015) and the order passed in M.J.C. No. 3879 of 2016 dated 23.06.2017 and for any other relief(s) for which the petitioner may be found entitled to in the facts of the present case."

We are of the considered view that the issue is totally covered with the judgment/order dated 16.01.2015 passed by a Division Bench of this Court in C.W.J.C. No. 3911 of 2014 (M/s Rafai Scrap Udyog vs. Union of India and Ors), operative portion whereof reads as under:

"8. Learned counsel for the State is unable to satisfy this Court as to any provision under the Central Sales Tax Act or Rules which authorises the Commissioner-cum-Principal Secretary, Commercial Taxes Department to issue executive instructions or orders contrary to what has been provided by the Rules.

9. In the aforesaid view of the matter, the Circle Letter No.4354 dated 5.12.2013 issued by the Commissioner-cum-Principal Secretary, Commercial Taxes Department, Bihar is quashed and the respondents are directed to accept blank Form-C issued to the petitioner by the authorities of Commercial Taxes Department of U.P. forthwith, subject of course to process of manual verification as was being followed earlier in case of such forms. The respondent Railway is directed to accept the blank Form-C issued to the petitioner and duly filled up subsequently without being uploaded on TINXSYS software and thereafter the respondent authorities of the Commercial Taxes Department shall accept such manually issued Form-C not uploaded on TINXSYS software but filled up in accordance with the Act and Rules.

10. It is pointed out by learned counsel for the petitioner that since January, 2014 the authorities of the Railway have compelled the petitioner to deposit the difference of amount of Tax as also Bank Guarantee. The authorities of the respondent Railways are directed to refund the same without a period of two months from the date of receipt/production of a copy of this order.

11. It is clarified that the procedure so far as the manually issued forms not uploaded on TINXSYS software

are concerned to be followed by the dealers as also the authorities of the Department shall be as was being followed earlier before introduction of TINXSYS software with respect to such forms."

It is not in dispute that the transaction took place in the year 2014-15 and the system in operation was not fully functional whereby the document could be uploaded electronically. The facility of TINXSYS was not fully functional as such we dispose of the present petition in terms of the judgment/order dated 16.01.2015 passed in M/s Rafai Scrap Udyog (supra ) to be applicable in the instant case.

Needless to add the petitioner shall comply with all the formalities and if so permissible also simultaneously fill up his form electronically.

The present petition stands disposed off.

**(Sanjay Karol, CJ)**

**(S. Kumar, J)**

mdrashid/-

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