IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16932 of 2018

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M/s Swabhiman Commercial Private Limited son of Ravindra Agrawal, Flat No. Flat No. G1/G4, S.H. Square Apartment, Near Kashyap Marriage Hall, Ashiana Nagar, P.S. Phulwarisharif, District Patna- 800014.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner of Commercial Taxes, Bihar, Vikas Bhawan, Patna.
3. The Deputy Commissioner of Commercial Taxes, Central Circle, Patna.
4. Bihar Rajya Beej Nigam Limited, 6th Floor, Pant Bhawan, Jawahar Lal Nehru Marg, Patna, through its Managing Director
5. The Chief of Processing, Bihar Rajya Beej Nigam Limited, 6th Floor, Pant Bhawan, Jawahar Lal Nehru Marg, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Samdarshi, Adv.
For the Respondent/s	:	Mr.Vikash Kumar – Sc11
	:	Mr. Nalin Vilochan Tiwary, Adv.
For the Corporation	:	Mr. Sourendra Pandey, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 03-02-2020 This application has been preferred praying inter alia for the following relief/s:

> "(i) For issuance of a Writ of Mandamus directing the respondent authorities to refund the amount of tax deducted from the bills of the petitioner contrary to the provisions of the Bihar Value Added Tax Act, 2005 (hereinafter referred to as the 'VAT Act') and in particular Section 40 thereof.
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> (ii) For a declaration that action of the

respondent authorities is contrary to the provisions of the VAT Act and thus the respondent Commercial Taxes Department should impose penalty on the respondent no.5 for illegal deduction and realization of tax, which is without authority of law.

(iii) For a direction to the respondent authorities to make payment of tax illegally deducted, along with interest; and for any other relief or reliefs to which the petitioner is found entitled."

Petitioner's entitlement for refund of the amount, subject matter of the present petition, is not in dispute. In fact, learned counsel Sri Sourendra Pandey, appearing for respondent nos. 4 and 5 namely Bihar Rajya Beej Nigam Limited and The Chief of Processing, Bihar Rajya Beej Nigam Limited respectively, states that petitioner's case already stands processed and forwarded to the Commissioner of Commercial Taxes, Bihar, for release of the amount. Learned counsel for the petitioner also points out to the order dated 13.7.2017 (Annexure-9) in that regard.

Our attention is also invited to order dated 06.05.2016 passed in C.W.J.C. No.5466 of 2016, titled as M/s National Trading Corporation vs. The State of Bihar & Ors., wherein in similar circumstances, this Court directed the refund of the amount.

Under these circumstances, we dispose of the present petition with a direction to respondents nos. 2 and 3, namely The Commissioner of Commercial Taxes, Bihar, and The Deputy Commissioner of Commercial Taxes respectively, to refund the amount as processed by respondent no.4, expeditiously.

We notice that the transaction pertains to the year 2016. As such, we direct that if the amount is not released within next four weeks, the component of interest shall be paid by the officer/s concerned.

Both Sri Vikash Kumar and Sri Sourendra Pandey undertake to communicate the order to the concerned authorities by all modes, including electronic mode.

(Sanjay Karol, CJ)

(Mohit Kumar Shah, J)

K.C.Jha/-

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