

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3826 of 2018

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M/s Associated Jute Industries, a Proprietorship Firm, having its office at 9/4, Vrindawan Datta Lane, Salia, Howrah, Kolkata-711106, through its Authorized Representative, Md. Reza, son of Md. Yusuf, resident of 15, Bazar Bylane, Serampore, P.O. and P.S. Serampore, District Hooghly- 712201.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Commissioner of Commercial Taxes, Bihar, Patna
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, Advocate Mr. Indrajesh Kumar, Advocate Mr. Vishal Vikram, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11 Mr. Saurendra Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-12-2020

The petitioner has prayed for following relief(s):

1(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.

(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.”

As per the version of Respondent Nos. 4 and 5, application for refund of the amount due and payable already stands filed with the competent authority, which fact is seriously disputed by Shri Vikash Kumar, learned Standing Counsel No. 11.

Be that as it may, we dispose of the present petition in the following mutually agreeable terms:

(a) Respondent Nos. 4 and 5, namely Bihar Rajya Beej Nigam Limited, Patna through its Managing Director and The Chief of Processing, Bihar Rajya Beej Nigam Limited, Patna respectively, shall file an application in requisite form, per law, within a period of two weeks from today;

(b) the said application shall be processed and the amount refunded positively within a period of two weeks from the date of filing;



(c) the State, through the learned counsel, undertakes to do so within the said period;

(d) with the amount of refund received by Respondent Nos. 4 and 5, namely, Bihar Rajya Beej Nigam Limited, Patna through its Managing Director and The Chief of Processing, Bihar Rajya Beej Nigam Limited, Patna respectively, same shall be remitted into the bank account of the petitioner, within next two working days;

(e) equally, liberty reserved to the parties to take recourse to such other remedies as are otherwise available in accordance with law;

(f) we are hopeful that as and when petitioner takes recourse to such remedies, as are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch;

(g) we have not expressed any opinion on merits;

(h) all issues on merits are left open;

(i) liberty reserved to the petitioner to file a fresh petition, on the same and subsequent cause of action, if the need so arises.

The instant petition stands disposed of in the aforesaid terms.



Interlocutory Application(s), if any, also stands
disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/P.K.P/

AFR/NAFR	
CAV DATE	
Uploading Date	23.12.2020
Transmission Date	

