IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.450 of 2019

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National Agricultural Co- op Marketing Federation Ltd. a Co-operative Society registered under the provisions of Societies Act having its office at IIIrd Floor Deepsheela Complex, Budh Marg, Patna through its Account Assistant Sujoy Roy Chowdhury, son of Late Dinesh Chandra Roy Chowdhury, resident of B-1, S-5, Podder Park Govt. Quarter, Lake Gardens, Kolkata, West Bengal-700045

... ... Appellant/s

Versus

1. Commercial Taxes Tribunal through its Secretary, having its office at Anta Ghat, Patna
2. Commissioner of Commercial Taxes Bihar, Patna
3. Assistant Commissioner of Commercial Taxes Patliputra Circle, Patna

... ... Respondent/s

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Appearance :

For the Appellant/s	:	Mr.D.V. Pathy, Adv.
For the Respondent/s	:	Mr.Vikash Kumar (SC11)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing from their residence.)

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

Date : 03-12-2020

This Miscellaneous Appeal has been filed on behalf of appellant National Agricultural Co-operative Marketing Federation Ltd. Patna against the order dated 27.08.2018 in Appeal Case No. PT-117/2014 for the period

2008-09 passed by the Commercial Taxes Tribunal Bihar Patna by which petition for waiver of pre-deposit has been rejected.

Appellant is a co-operative Society and is Nodal Agency nominated by the Government of Bihar for procurement of food grains for Food Corporation of India to be supplied under a Public Distribution System. Appellant filed its return disclosing a gross turnover of Rs. 1,61,69,71,675.99 and has shown procurement of rice and white directly from the farmers to be supplied to the Food Corporation of India. The respondent no.3 imposed a tax and interest totalling to Rs. 1,67,86,530/- aggrieved by which Revision was filed before respondent no.2 and same being rejected appellant filed an appeal before the respondent no.1 stating therein that Food Corporation of India has paid tax on sale and appellant was entitled to remuneration by way of commission @ of 2.5 % and as such was not taxable. Appellant filed application for waiver of pre-deposit under the proviso appended to section 73 (2) of the Act and same was rejected by the order as impugned.

After hearing the parties and in facts and circumstances of the present case the appeal of appellant shall be admitted by the Commercial Taxes Tribunal, Patna (respondent no.1) on payment of Rs. 20,00000/- (rupees twenty lacs) as pre-deposit amount and appeal to be decided on merit within 90 days thereafter.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2020
Transmission Date	NA