IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18239 of 2019

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Jai Mata Dee Construction a partnership firm having its office at Chakiahat, Jokiahat, Araria through is partner Sanjay Kumar Son of Late Jagarnath Sah, Shivpuri Ward No.9, near Global Public School P.S. Araria, District Araria.

... ... Petitioner/s

Versus

1. Commissioner of State Tax having its office at Vikas Bhawan, Bailey Road, Patna.
2. Road Construction Department through its Secretary having its office at Vishweshwaraiya Bhawan, Bailey Road, Patna.
3. Rural Works Department through its Secretary having its Office at Vishweshwaraiya Bhawan, Bailey Road, Patna.
4. Joint Commissioner of State Tax, Forbesganj.
5. Road Construction Department through its Secretary.
6. Road Construction Department through its Executive Engineer, RCD Road Division, Kishanganj.
7. Road Construction Department through its Executive Engineer, RCD Road Division, Araria.
8. Rural Works Department, through its Executive Engineer, RCD Road Division, Forbesganj.
9. Rural Works Department through its Executive Engineer, RCD Road Division, Baisi.
10. Rural Works Department through its Executive Engineer, RCD Road Division, Kishanganj 2.
11. Rural Works Department through its Executive Engineer, RCD Road Division, Araria.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.D.V.Pathy, Advocate.

For the Respondent/s : Mr.Vikash Kumar (Sc11)

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-12-2020

Petitioner has prayed for the following relief(s):-

> "i) the respondent nos. 5 to 11 be directed to remit the amount of tax deducted at source from the bills of the petitioner under the repealed Bihar Value Added Tax Act, 2005 (hereinafter call the VAT Act) after the coming into force of Bihar Goods and Service Tax Act, 2007 (hereinafter called the Act) directly to the account of the respondent no. 4 for adjustment against the tax liability under the said Act.
>
> ii) Alternatively, the respondent nos. 5 to 11 be directed to refund the amount of tax deducted source from the bills of the petitioner after the coming into force of the Act with appropriate interest thereon.
>
> Iii) the respondent no. 4 be directed to restore the registration cancelled under the Act for failure to pay the amount of tax under the Act for the period 01.07.2017 to 31.03.2018.
>
> iv) for granting any other relief(s) to which the petitioner is otherwise found entitled to."

In our considered view, the issue can best be resolved with the petitioner appearing before the respondent no. 2, who shall, after ascertaining the information from all departments/sources, ensure passing of appropriate directions for adjustment of the tax deducted under various Statutes and refund of the amount, due and admissible, in accordance with law. Such deduction, adjustment and refund has to be in terms of the Bihar Value Added Tax Act/Bihar Goods and Service Tax Act.

We direct the petitioner to appear before the respondent no. 2, namely, Road Construction Department through its Secretary having its office at Vishweshwaraiya Bhawan, Bailey Road, Patna on 28th December, 2020 at 10:00 A.M.

Necessary order shall be passed on or before 31st of March, 2021 and the amount of refund, if any, found due and admissible, after making necessary adjustment, shall be disbursed to the petitioner on or before 30th April, 2021.

We are constrained to pass such direction, considering the fact that the matter pertains to the period 2017-18 and the issue ought to have been decided by the authority at the earliest.

Shri D.V.Pathy states that if the amount of refund, as may be found admissible, is disbursed to the petitioner on or before 30th of April, 2021, he shall give up the claim for interest thereupon.

Statement accepted and taken on record.

Petition stands disposed of.

Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2020
Transmission Date	