IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7204 of 2021

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M/s Keller Grounds Engineering India Pvt. Ltd. having its registered office at 7th Floor Eastern Wing, Centennial Squire, 6A, Doctor Ambedkar Road, Kodambakka, Chennai and its regional office at opposite IGIMS, Bailey Road, Sheikpura, Patna through its partner Mr. Yandamuri Lakshmi Badra Raju.

... ... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. Commissioner, Commercial Tax Department, Govt. of Bihar, New Secretariat, Patna.
3. Joint Commissioner of State Tax, Special Circle, Patna.
4. Additional Commissioner, Commercial Taxes, Special Circle, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Anurag Saurav, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

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

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(The proceedings of the Court are being conducted by Hon’ble the Chief Justice/ Hon’ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 15-09-2021

Heard learned counsel for the parties.

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

> “1.(i) For issuance of writ in the nature of mandamus directing the respondent authorities specially respondent no. 3 and 4 to make a

refund of wrongly paid entry tax amount of Rs. 1,17,63,413.93/- along with statutory interest as prescribed under section 70 of Bihar VAT Act, 2005 for the financial year 2016-17, whereas the petitioner brought certain plant and machinery for the purpose of completion of project in Bihar and the said plant and machinery were belonging to the petitioner and transfer from one State to another through Road permit (i.e. D-IX) issued by respondent no.3 and the petitioner under wrong consideration make the payment of entry tax on the “plant and machinery items” whereas “Plant and machinery” were non-scheduled and exempted items under “Bihar Tax on entry of Goods into local areas for consumption, use or sales therein act.”

(ii). For issuance of writ in the nature of mandamus directing the respondent authorities to consider and decide the claim of the petitioner with regard to wrongly paid entry tax on plant and machinery in the light of claim taken by petitioner in their annual return, audit report and representation dated 05.03.2020.

(iii) For issuance of Writ in the nature of mandamus directing the respondent authorities for issuance of provisional refund against Bank Guarantee till the final assessment of the petitioner on the basis of refund claimed by the petitioner of the tax amount erroneously paid by the petitioner on Plant and Machinery.

(iv) For issuance of any other appropriate writ(s), order(s) and direction(s) as your

> Lordship may deem fit and proper in the facts and circumstances of the case.”

Shri Anurag Saurav, learned counsel for the petitioner states that the counter affidavit filed in the instant petition, actually pertains to **CWJC No. 5588 of 2021,** titled as **M/s Keller Grounds Engineering India Pvt. Ltd Vs. The State of Bihar & Ors.,** filed by the very same petitioner.

Shri Vikash Kumar, learned Standing Counsel No. 11 is not in a position to clarify such fact.

Shri Anurag Saurav, learned counsel for the petitioner, in view of the intervening developments, inasmuch as the department has issued notice to the petitioner calling upon them to produce material(s) in support of their application for refund, seeks permission to withdraw the present petition.

Permission granted.

Instant petition stands disposed of as withdrawn with liberty as prayed for, to take recourse to such remedies as are otherwise available to the petitioner, if the need so arises subsequently.

Needless to add, filing of the counter affidavit would have no bearing in the decision of the present case, for the petition has been withdrawn by the petitioner.

Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/P.K.P.

AFR/NAFR	
CAV DATE	
Uploading Date	17.09.2021
Transmission Date	