IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4107 of 2017

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M/s Ashok Buildcon Ltd. having its registered office at Road No.6, Shastri Nagar, Plot No.70, Sector-32 Gurgaon, and Regional Office at - A -1, First Floor, Jula Niketan Apartment, Anandpuri, Gali No. 02, West Boring Canal Road, Patna - 1, Bihar.

... ... Petitioner/s

Versus

1. The State Of Bihar through Commissioner, Commercial Tax Department, New Secretariat, patna
2. The Deputy Commissioner of Commercial Taxes, Special Circle, Patna.
3. Assistant Commissioner of 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 ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

9 10-03-2021 Petitioner has prayed for the following reliefs: -

> "(a) For issuance of the writ in the nature of certiorari quashing the order dated 26.08.2016 passed under section 31(1) of Bihar Value Added Tax Act 2005 read with section 8 of Bihar Entry Tax Act 1993 passed by Deputy Commissioner, Commercial Taxes, Special Circle, Patna whereby and where under Deputy Commissioner, Commercial Taxes Special Circle, Patna rejected the claim of the petitioner for refund the amount of Rs.12,82,721/- as wrongly paid by the petitioner as Entry Tax on the plant and

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> machinery (non-schedule goods) brought by the petitioner for construction of their Manufacturing Unit, as plant and machinery were non schedule goods and no entry tax amount required to be paid on such items and learned Assessing Officer without considering the aforesaid objection raised by the petitioner, passed a non speaking order and rejected the claim of the petitioner.
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> (b) For issuance of the writ in the nature of mandamus directing the respondent authorities to considered the application/objection, filed by the petitioner before the Assessing Officer and passed a reasoned and speaking order after considering the provisions of Bihar Entry Tax. Government Policy i.e. Bihar Industrial Incentive Policy 2011 and the objection raised by the petitioner, which states that plant and machinery are non schedule goods and no entry tax is required to paid on the non schedule goods.
>
> (c) For issuance of any other appropriate writ order or direction as your lordship may deem fit and proper in the facts and circumstances of the case."

Having heard learned counsel for the parties, learned counsel for the petitioner states that petitioner be allowed to prefer a statutory appeal with a further request of the same to be decided expeditiously.

Shri Vikash Kumar, learned counsel for the State,

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states that if the petitioner prefers a statutory appeal in next two weeks, the same shall be considered and decided positively within a period of two months.

Needless to add, all questions of fact and law are left open, to be adjudicated by the appropriate authority and decision taken by assigning reasons, copy whereof shall be supplied to the petitioner.

Liberty reserved to the petitioner to assail the order, if so required and desired, and to take recourse to such remedies as are otherwise available in law.

With the aforesaid observation and liberty, application is disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/DKS-

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