IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4479 of 2021

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M/s Isha Distribution House Pvt. Ltd. having its place of business at D.S.-24B, Digamber Palace, Kankarbagh, Patna through its Authorized Signatory, namely Arun Kumar (Male), aged about 58 years, Son of Shri Krishna Narayan Pandit, Resident of Bakarganj, Gola Road, Near Kali Mandir, P.S. Gandhi Maidan, Town and District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary-cum-Commissioner of Commercial Taxes now known as Department of State Taxes, Bihar, Patna.
2. The Principal Secretary-cum-Commissioner of Commercial Taxes now known as Department of State Taxes, Bihar, Patna.
3. The Deputy Commissioner of Commercial Taxes (State), Patna South Circle, Patna.
4. The Joint Commissioner of Commercial Taxes (State), Patna South Circle, Patna.
5. The Assistant Commissioner of Commercial Taxes (State), Patna South Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mohit Agarwal, 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)

Date : 01-09-2021

Sri Vikash Kumar, learned Standing Counsel-11 clarifies that supplementary affidavit dated 31.08.2021 filed on behalf of respondent nos. 3 and 4 namely The Deputy Commissioner of Commercial Taxes (State), Patna South Circle, Patna and the Joint Commissioner of Commercial Taxes (State), Patna South Circle, Patna, respectively, pertains to the present petition i.e. CWJC No.4479 of 2021 and not CWJC No.7479 of 2021 as is captioned in the affidavit.

Registry is directed to make necessary correction on the said affidavit, both on the digital as also the physical file.

The petitioner has prayed for the following relief/s :-

> "i] For issuance of Writ in nature of mandamus directing the respondent to refund the excess of the tax amount realized from the petitioner/paid in connection with the financial years 2001-02 to 2004-05 which total amounts to Rs.3,47,062/-;
>
> ii] For issuance of a Writ in nature of mandamus directing the respondent to refund the excess amount of tax realized/paid by the petitioner in connection with the financial years 2001-02 to 2004-05 with interest at rate of 9% per annum in terms of Section 43 of the Bihar Finance Act, 1981; for any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances in this case."

Shri Vikash Kumar, learned SC-11, invites our attention to the fact that during the pendency of the present petition, the amount due stands paid to the petitioner.

Shri Mohit Agarwal, learned counsel, who appears on behalf of the petitioner, does not dispute the said fact, save and except, asserts that the issue of payment of interest is yet pending consideration before the Department.

If that were so, we leave it open to the petitioner to pursue the remedies in accordance with law and close the present proceedings.

The petition stands disposed of.

Interlocutory Application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/Ashwini

AFR/NAFR	
CAV DATE	
Uploading Date	08.09.2021
Transmission Date	