# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.5849 of 2021**

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Ananta Shree Enterprises Private Limited, a company registered under Company Act 1956 having its registered office at House no. 14, Doctor Colony, Kankarbagh, Patna, Bihar- 800020, through its Managing Director, Ashish Kumar Sinha age about 42 years, gender- Male, Son of Sri Surender Kumar Sinha, Resident of Kanti factory Road, P.O.- Bhutnath, P.s.- Hanuman Nagar, District- Patna-800020

... ... Petitioner/s

Versus

1. The State of Bihar through its Secretary, State Tax Department, Vikash Bhavan, Bailey Road, Patna
2. The Commissioner, State Tax Department, Vikash Bhavan, Bailey Road, Patna
3. The Joint Commissioner, State Tax Department, South Circle, Patna
4. The Commercial Tax Officer, South Circle- Patna
5. The Assistant Commissioner, State Tax Department, South circle, Patna

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Krishna Mohan Mishra, 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 : 22-07-2021**

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

> "i. To quash the notice issued by respondent Assistant Commissioner, which contain in notice no. 824 dated 02.01.2021 for the period 2014-15 as the notice under Section 76 of the VAT Act in question is unauthorised and without jurisdiction in view of the fact that the assessing officer has already verified the books of account and document in the original order of assessment dated 04.04.2017.

ii. To hold and declare that the initiation of proceeding under section 76 of the VAT Act for review of order passed on 04.04.2017 is wholly illegal as the error pointed out in the notice is not apparent from the face of the record.

iii. To direct the respondent assessing officer to issue or adjust the refund of Rs. 2,44,482/- due for the period 2014-15 or adjust the amount due for the period of 2015-16 and further to issue refund of Rs. 1,02,051/- for the period 2015-16.

iv. To issue any other writ/writs, order/orders, direction/directions as your honour deemed fit and proper."

Shri Vikash Kumar, learned Standing Counsel No. 11, states that during the pendency of the present petition, the appropriate authority has already passed the final order.

In this view of the matter, Shri Krishna Mohan Mishra, learned counsel for the petitioner, seeks permission to withdraw the present petition reserving liberty to file a fresh petition, on the same and subsequent cause of action, including challenging the order passed by the appropriate authority, if so required and desired.

Permission granted with liberty as prayed for.

As and when any such petition is filed, the same shall be listed on priority basis.

Instant petition stands dismissed as withdrawn in the aforesaid terms.

Interlocutory Application(s), if any, stands disposed of.

**(Sanjay Karol, CJ)**

**( S. Kumar, J)**

Sujit/Ashwini

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| **AFR/NAFR** | |
| **CAV DATE** | |
| **Uploading Date** | 28.07.2021 |
| **Transmission Date** | |